DOCUMENT RESUME

ED 083 734 80 EA 005 576

AUTHOR Wahl, Dewey

TITLE Problems of Transition: Changing a State Department of Education from a Partisan to a Nonpartisan Political Structure.

INSTITUTION Illinois State Office of the Superintendent of Public Instruction, Springfield.; Indiana State Dept. of Public Instruction, Indianapolis.

SPONS AGENCY Bureau of Elementary and Secondary Education (DHEW/OE), Washington, D.C.; Upper Midwestern Region Interstate Project, Madison, Wis.; Wisconsin State Dept. of Public Instruction, Madison.

PUB DATE Jun 73

NOTE 223p.

EDRS PRICE MF-$0.65 HC-$9.87

DESCRIPTORS *Administrative Personnel; Education; *Elections; Politics; Problems; *State Departments of Education; *State Officials; *Superintendents

IDENTIFIERS *Chief State School Officers; Elementary Secondary Education Act Title V; ESEA Title V; Superintendents of Public Instruction

ABSTRACT

This study attempted to identify some of the major problems that a State Education Agency (SEA) might encounter during the transition from an agency headed by an elected Chief State School Officer (CSSO) to that same agency headed by a State Board of Education (SBE) appointed CSSO. Five States--Iowa, Kansas, Michigan, Missouri, and West Virginia--were selected for the study on the basis of their shifts to a board-appointed CSSO. Data were gathered by interviewing persons who held key positions in the State at the time of transition. Each of the five chapters of this report is devoted to one of the five study States and is a complete entity with text and the corresponding appendix. The text of each chapter is divided into (1) a brief history of the SEA up to the year selected by the author as being the "jumping off" point for the change, (2) principal studies or processes that led to the change, together with information about what followed immediately after the implementing statutes were enacted, and (3) a review and an appraisal of the current governing structure as seen by study participants. A separate chapter summarizes some of the findings. (Author/JF)

ED 083734

U.S. DEPARTMENT OF HEALTH
EDUCATION & WELFARE
NATIONAL INSTITUTE OF
EDUCATION
THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL NATIONAL INSTITUTE OF EDUCATION POSITION OR POLICY

PROBLEMS OF TRANSITION:

Changing a State Department of Education from a Partisan to a Nonpartisan Political Structure

A study of five states having made the transition from an elected Chief State School Officer (CSSO) to a State Board of Education appointed CSSO. Of primary concern were the significant problems perceived by those in key roles during the transition.

EA 005 576

FILMED FROM BEST AVAILABLE COPY

ED 083734

PROBLEMS OF TRANSITION:
Changing a State Department of Education from a Partisan to a Nonpartisan Political Structure

by
Dewey Wahl
Purdue University/
Ind. State Dept. of Public Instruction

Project Co-Directors
Emmett J. Slingsby
Asst. Supt. - Federal Relations
Illinois State Dept. of Public Instruction
Dewey Wahl
Purdue University/
Ind. State Dept. of Public Instruction

Financed by
Upper Midwest Regional Interstate Project
Administered by Wisconsin State Dept. of Public Instruction
Madison, Wisconsin
(Public Law 89-10, Title V, Section 505)

Printed by Purdue University Press

June 1973

CONTENTS

	Introduction	1
I.	Iowa State Education Agency--Transition 1950 to 1967	7
	Index to Chapter I	8
II.	Kansas State Education Agency--Transition 1969	45
	Index to Chapter II	46
III.	Michigan State Education Agency--Transition 1965	89
	Index to Chapter III	90
IV.	Missouri State Education Agency--Transition 1947	125
	Index to Chapter IV	126
V.	West Virginia State Education Agency--Transition 1958	163
	Index to Chapter V	164
VI.	Summary	199
	Index to Chapter VI	200

INTRODUCTION

The purpose of this project was to attempt to identify some of the major problems which a State Education Agency (SEA) might encounter during the transition from an agency headed by an elected Chief State School Officer (CSSO) to that same agency headed by a State Board of Education (SBE) appointed CSSO. By identifying potential transition problems before an SEA faces such a change, it is possible that the SEA could devise a strategy which would enable it to minimize or eliminate some of these problems, if indeed there are any problems.

Areas in which difficulties could arise can be cited. Problems could result in the transfer of powers from the elected CSSO to the new SBE in those states where the powers had been vested in the CSSO before the transition. Other problems might arise from the manner in which personnel of the State Department of Education (SDE) are provided for during the transition. Others could spring from the manner in which the SBE deals with its new powers or from the manner in which the SBE selects its first CSSO. Still others may result from an inadequate assignment of powers and responsibilities by the constitutional and/or statutory basis of the SBE's authority.

This project, at the time of formulation, was of immediate interest to the co-sponsoring states--Indiana and Illinois. Illinois' General Assembly was mandated by the state's 1970 Constitution to provide for an SBE. One of the principal duties assigned to the SBE was the appointment of a CSSO. Left unanswered by this constitution were those questions concerned with the

method of selection, number of members, term length of members, qualifications of members, etc. Illinois' General Assembly was directed to fill in these very important details. The electorate of Indiana, by virtue of the ratification of a Constitutional Amendment in November 1972, enabled its General Assembly to examine the entire governing structure arrangement for elementary and secondary education.

Five states were selected for study on the basis of the kinds of governing structure changes which they had most recently made. All of the study states had shifted to a board-appointed CSSO; the trend, nationally, has been in this direction and today there are 26 CSSO's selected by this method. If there were two or more states that had made an identical governing structure change, the state making the most recent change was selected. The states and their current and previous structures are given below:

	PRIMARY CHANGE			SECOND CHANGE	
State	From	To	Year	To	Year
Iowa	No SBE Elected CSSO	Elected SBE SBE-Apptd CSSO	1954	Gov-Apptd SBE SBE-Apptd CSSO	1967
Kansas	Gov-Apptd SBE Elected CSSO	Elected SBE SBE-Apptd CSSO	1969		
Michigan	Elected SBE Elected CSSO	Elected SBE SBE-Apptd CSSO	1965		
Missouri	Ex officio SBE Elected CSSO	Gov-Apptd SBE SBE-Apptd CSSO	1947		
West Virginia	Gov-Apptd SBE Elected CSSO	Gov-Apptd SBE SBE-Apptd CSSO	1958		

It was hoped that the variety of governing structure changes represented by these five states would provide a wide range of problem types which could be reviewed and studied. Of course, there was no way of knowing ahead of time what types of problems, if any, had occurred in these states during their transition periods. Each of the five SEA's was contacted: each agreed to participate in the study and designated an official in the agency, either the deputy CSSO or the administrative assistant to the CSSO, to work with

the study team.

In order to get a variety of viewpoints, each agency was asked if it could obtain people who held the following kinds of positions at, or near, the time that the transition was made:

1. the Chief State School Officer(s);
2. a board member(s);
3. the Governor(s), or educational representative(s) on the Governor's staff;
4. legislative leaders, particularly those who served as chairman of the Senate and House Education Committees;
5. a local superintendent, particularly one who served in the vicinity of the state capitol;
6. a long-term employee of the SEA;
7. a person who served as an executive of an important educational interest group.

It was felt that this cross-section of people, if obtained, would be most knowledgeable about the transition and the problems caused by it. As expected, the difficulty in obtaining these kinds of individuals increased considerably as the time between the year of transition and 1973 increased.

Visits to the five states were made during the period February 20 through March 14, 1973. The various participants in the study were asked a variety of questions about the transition. A listing of the questions is as follows:

1. What method was used to initiate the change? (A legislative study group, SEA suggested change, governor's study committee, consultants, etc.)
2. What internal problems were caused within the SEA during and after the transition?
3. What arrangements were made for employees of the SEA during the transition?
   a. Were on-board employees given "grandfather-clause" treatment?
   b. Were employees required to take civil service or other employee examinations to retain their positions?
   c. Were personnel policy manuals prepared and justifications established to support personnel changes?
   d. What was the degree of involvement of the SBE in personnel matters?
   e. Was the SBE permitted the option of establishing organizational structure and setting salary scales?

4. Did the legislative body adopt a "hands-off" policy towards the SEA for some period of time after the transition in order to allow the SEA a period of adjustment?
5. What general powers were given to the SBE? What powers were reserved for the CSSO? What is the frequency of SBE meetings? Was the frequency of meetings established by law?
6. Was an orderly transition of powers from the CSSO to the SBE specified in the law? If not, should there have been provisions in the law?
7. Was the incumbent CSSO restricted from consideration as a candidate for the appointive CSSO position? If not, should he/she have been excluded from consideration?
8. Were specific restrictions or special qualifications placed on the CSSO's job? If not, should they have been?
9. Did the SBE go out of the state for the first board-appointed CSSO? Is this an important consideration?
10. If more than one change has occurred to get to your present governing structure, why was it approached in this manner? Was it planned or did it just evolve?
11. Were there any problems which might have been avoided by appropriate legislation?
12. Other comments?
    (For instance, in your opinion is the current governing structure the best one, or do you feel that another one might do a better job?)

While these questions provided a framework for discussion, other topics pertinent to the governing structure question were explored and discussed. The degree of deviation from the structured question set depended largely upon the depth with which the participant wished to explore a given topic or issue. Discussions were recorded if participants consented to do so: all who were asked consented to do so.

Each of the following five chapters is devoted to one of the five study states. Each chapter is a complete entity and includes text and the corresponding appendix: all are organized in the same manner. Also included, at the front, is the list of names of those participating in the study. The text of each chapter is divided into three parts. The first part provides a brief history of the SEA up to the year selected by the author as being the"jumping off" point for the change. This is a rather difficult point to determine and is, in fact, quite arbitrary. The second

part of each chapter is concerned with that period of time in which the governing structure change(s) took place. It included information about the principal studies or processes which led to the change, together with information about what followed immediately after the implementing statutes were enacted. These two sections were included to provide the reader with an insight into the various governing structures established by a given state before it arrived at its current situation. The third part of the text is devoted to a review and appraisal of the current governing structure as seen by the study participants. Participants' viewpoints were summarized and presented in this section: names were not linked directly to individual comments or observations.

A sixth chapter has been included which summarizes some of the findings. It is presented from the standpoint of an overview of the five states.

The project team wishes to acknowledge the excellent cooperation and assistance given them by the hosts, study organizers and participants in each of the five states. The project directors extend their appreciation to Indiana State Superintendents of Public Instruction, Mr. J. J. Loughlin and Dr. H. H. Negley, and Illinois State Superintendent of Public Instruction, Dr. M. J. Bakalis, for their willingness to permit the project directors to carry out this project. Also, they wish to thank the Midwest Interstate Project for providing financial support for this project. Finally, the author wishes to acknowledge the secretarial support of Miss Karen E. Wilczewski in transcribing the tapes and preparing the various drafts of this report.

I - Iowa State Education Agency--
transition 1950 to 1967

Contents

Pages

Brief History to 1950 11

Constitution 12

State Board of Education 15

State Superintendent of Public Instruction 19

The Changes--The Period from 1950 to 1967 25

The First Change, 1954 27

The Second Change, 1965-67 29

A Review and Appraisal of the Governing Structure by the Iowa Study Participants 30

Appendix I - Iowa 37

I.A. - Iowa Constitution (1846) Article X--Education and School Lands 38

I.B. - Iowa Constitution (1857) Article IX--Education and School Lands. 40

Table 1 - Comparison of the 1846 with the 1857 Iowa Constitutions--Education Article 13

Figure 1 - Key Events in the Iowa State Education Agency Development 20

Bibliography 43

IOWA

STUDY PARTICIPANTS

Individual meetings held on March 5-7, 1973, in Des Moines, Iowa, at the State Department of Public Instruction (Grimes State Office Building), the Iowa State House, and at Park Fair Shopping Center.

HOST: Dr. Robert F. Benton
State Superintendent
Iowa State Department of Public Instruction
Des Moines, Iowa 50319

STUDY ORGANIZER: Dr. Richard N. Smith
Deputy State Superintendent
Iowa State Department of Public Instruction
Des Moines, Iowa 50319

PARTICIPANTS:

Mr. Leonard Abels
Administrative Consultant (Legal Cons.)
Iowa State Department of Public Instruction
Des Moines, Iowa 50319
Administrative Consultant 1965-Pres.

The Honorable Lucas J. DeKoster
Iowa State Senate
State Capitol Building
Des Moines, Iowa 50319
Member of Iowa State Senate 1965-Pres.
Member of Senate Education Committee 1965-72

Mr. Henry Galbreth
Public Information Specialist
Iowa State Department of Public Instruction
Des Moines, Iowa 50319
Public Information Specialist 1965-Pres.
Associate Executive Director, Iowa Association of School Boards 1961-65
Editor, Midland Schools and Asst. Executive Secretary, Iowa State Education Association 1941-61

Mr. William Hedlund
Stevens Colonial House, Inc.
Park Fair Shopping Center
100 East Euclid
Des Moines, Iowa 50313
Administrative Asst. to Governor Harold Hughes, 1963-69

Mr. Paul F. Johnston
Consultant, Statistical Services
Iowa State Department of Public Instruction
Des Moines, Iowa 50319
State Superintendent of Public Instruction 1961-72
Member of Iowa State Department of Public Instruction 1946-Pres.

The Honorable Joan Lipsky
Iowa State House of Representatives
State Capitol Building
Des Moines, Iowa 50319
Member of House of Representatives 1967-Pres.
Member of House Education Committee 1967-Pres.

Mr. Arthur Roberts
Director, Transportation Division
Iowa State Department of Public Instruction
Des Moines, Iowa 50319
Director, Transportation Division, 1959-Pres.
Member, Iowa State Department of Public Instruction 1946-Pres.

CHAPTER I

IOWA STATE EDUCATION AGENCY--
TRANSITION 1950 TO 1967

Brief History to 1950

The early history and development of the Iowa State Department of Public Instruction has been described in a chapter of a book dealing with the fifty state departments of education: the chapter was prepared by Richard N. Smith, the current Deputy Superintendent of Public Instruction of Iowa.[1] A more detailed version of this chapter is available from the Iowa State Department of Public Instruction.[2]

The territorial government of Iowa provided for local schools in 1838, but made no provisions for a state-level educational organization at that time.[3] The first Iowa Constitution, ratified in December 1846, mandated the General Assembly to "provide for a system of common schools, . . ."[4] Iowa became a State on December 28, 1846.[5] The second, and current, Constitution which was ratified in September 1857, established an entirely different

---

[1] Jim B. Pearson and Edgar Fuller, eds., Education in the States: Historical Development and Outlook (Washington, D.C.: National Education Association of the United States, 1969), pp. 399-432.

[2] Richard N. Smith, Development of the Iowa Department of Public Instruction 1900-1965 (Des Moines, Iowa: Department of Public Instruction, 1969)

[3] Iowa Territory, Laws (1838), Education (pp. 180-183). See also Smith, op.cit., p.2.

[4] Iowa Const. (1846) art. X, s.3. A copy of Article X can be found in Appendix III.

[5] "Iowa." Encyclopedia Britannica, 1962, XII, pp. 578-583.

approach which eventually resulted in the General Assembly being responsible to "provide for the educational interest of the State in any other manner that to them shall seem best and proper."[6] Article IX, Section 1 (First-Education) of the 1857 Constitution placed the educational interests of the state in a Board of Education composed of the Lieutenant Governor and one member elected from each of the state's (eleven) judicial districts.[7] This board was given the power to legislate and to make rules and regulations: the General Assembly was given the power to alter, amend, or repeal any act, rule or regulation.[8] A proviso was established in the article which would allow the General Assembly to abolish or reorganize the board of education after 1863.[9] The General Assembly exercised its option to abolish the board in 1864 and Iowa has been operating its state-level educational organization on a statutory, as opposed to Constitutional, base since then.[10]

Constitution

A comparison of Article X, Education and School Lands, of the 1846 Constitution with Article IX, Education and School Lands, of the 1857 Constitution reveals some very basic changes, particularly with regard to the state-level governing structure of education. This comparison can be found in Table 1. Interestingly, the Iowa General Assembly, by abolishing the Board of Education established by the 1857 Constitution, has provided for state-level governance of education since 1864 by statute, making practically all of

---

[6]Iowa Const. (1857) art. IX, s.15 (First Education). A copy of Article IX can be found in Appendix III.

[7]Ibid., s.1 (First--Education).

[8]Ibid., s.8 (First--Education).

[9]Ibid., s.15 (First--Education).

[10]Iowa, Laws (1864), c.52. See also Smith, op.cit., p.4.

TABLE 1

COMPARISON OF THE 1846 WITH THE 1857 IOWA CONSTITUTIONS--EDUCATION ARTICLE

Sect. No. of Art. IX 1857 Const.	Sect. No. of Art. X 1846 Const.
1st. Education	
1. Established Board of Education. Lieutenant Governor, presiding officer, and one member from each of 11 judicial districts.	No counterpart.
2. Imposed age and citizenship requirements on Board members.	No counterpart.
3. Provided for term length and election of Board members; also provided for staggered terms.	No counterpart.
4. Provided for first meeting of Board. General Assembly to establish meeting dates after that.	No counterpart.
5. Provided for one 20-day session for the Board of Education each year. Also provided for a means of establishing special sessions.	No counterpart.
6. Established the office of Secretary (executive officer of the Board).	1. This section created the office of Supt. of Public Instruction. Duties similar?
7. Permits Board to establish rules and regulations.	No counterpart.
8. Permits Board to legislate and make rules and regulations. Allows General Assembly to alter, amend, or repeal acts, rules or regulations of the Board.	No counterpart.
9. Makes Governor ex officio member of the Board.	No counterpart.
10. Makes Board dependent upon General Assembly for operating funds. Prohibits Board from levying taxes or appropriating funds.	No counterpart.
11. Limits establishment of State University to one location and limits use of University funds to State University only.	5. This section permitted branches and use of funds at other locations.
12. Requires Board to establish a system of common schools and makes stipulations regarding length of school term.	3. General Assembly was required to establish the system.

TABLE 1--Continued

Sect. No. of Art. IX 1857 Const.	Sect. No. of Art. X 1846 Const.
13. Provides mileage and per diem for Board members.	No counterpart.
14. Establishes rules regarding Board meetings.	No counterpart.
15. Permits General Assembly to abolish or reorganize Board of Education after 1863, and to provide for the State's educational interest.	No counterpart.
2nd. School Funds and School Lands	
1. Gives General Assembly control of school funds and lands.	No counterpart.
2. Reserves proceeds from the University lands for sole use of the State University.	5. Latter part of first sentence similar except for "branches" concept.
3. Requires General Assembly to encourage the promotion of the various arts and sciences. Provides for the proceeds of all school lands.	2. Identical.
4. Provides for the disposition, by the Board of Education, of fines, etc., among the school districts of the state's counties, in proportion to the number of youths, for the purpose of supporting the schools or establishing libraries.	4. Distribution specifications changed. Made the General Assembly responsible for the disposition of monies.
5. Requires the General Assembly to take measures to protect, improve, or dispose of any lands given to the State for University use including reponsibility for the protection and improvement of University funds.	5. Almost identical. Eliminates reference to "branches."
6. Provided that the financial agents of school funds are to be those who receive state and local revenue for other purposes.	No counterpart.
7. Provided for the distribution of state monies to common school districts on the basis of the number of youths from 5 to 20 in the manner prescribed by law.	No counterpart. (Some relationship to No. 4 above?)

the first part of the education article inoperative. In 1864, the General Assembly established the office of State Superintendent of Public Instruction and provided for the election of this office.[11] The office exists today but the method of selection was changed several times since that time. An excellent paper prepared by Abels details the important sources of educational law in Iowa and points out the current Constitutional status of educational law.[12]

State Board of Education

The first effort at providing for a state board of education was a radical departure from the concept in general use in those early days. This board, the Board of Education, was given power to legislate, to make rules and regulations, and to provide for a system of common schools.[13] It was established by the Constitution of 1857 and was a general purpose board having jurisdiction over all of education. The Lieutenant Governor was made a member and was designated the presiding officer of the board: further, the Governor was made an ex officio member of the board. One person elected from each of the state's eleven judicial districts made up the balance of the membership of the board. The judicial district members of the Board of Education were to be elected from their respective districts at the General Election in October 1858 and the first meeting of the board was to be held in December 1858, according to the statutory provisions.[14] Through a provision of the Constitution, the General Assembly abolished the Board of

---

[11] Ibid. See also Smith, op.cit., pp.4-22.

[12] Leonard C. Abels, "Sources of School Law," (presented at the October 13, 1969 staff meeting of the Iowa State Department of Public Instruction, Des Moines, Iowa), p.1.

[13] Iowa Const. (1857) art. IX, sec. 1-14.

[14] Iowa, Laws (1858), c.155; c.159, s.11.

Education in 1864.[15] The office of Superintendent of Public Instruction, eliminated in 1858 by the General Assembly in response to the constitutional mandate for a board secretary, was recreated in 1864.[16] Because of the General Assembly's exercising of the Constitutional provision, control of education was returned to the General Assembly in 1864. Abels indicated in his paper that Article III, Section 1 (Legislative Department) of the 1857 Constitution was cited by Iowa's Supreme Court as being the most important source of school law.[17] Article III, Section 1 (Legislative Department) states that "the Legislative authority of this State shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives. . ."[18]

In 1861, the Board of Education created a Board of Examiners for the purpose of issuing, and revoking, teaching certificates.[19] The statute was repealed in 1873.[20] An 1882 act of the General Assembly created a more comprehensive teacher examination board, called the Board of Educational Examiners.[21] This board was largely a professional board and it was composed of the State Superintendent of Public Instruction serving as President, the President of the State University of Iowa, the President of the Iowa State Normal School, and two persons appointed by the State Executive Council, one of whom was to be a woman. Appointed members to the board could not be

---

[15] Iowa, Laws (1864), c.52.

[16] Ibid.

[17] Abels, op.cit., p.1.

[18] Iowa Const. (1857) art. III, sec. 1 (Legislative Department).

[19] Smith, op.cit., p.4.

[20] Ibid.

[21] Iowa, Laws (1882), c.167, s.1.

reappointed. The board could examine and certificate teachers and could revoke certificates under certain conditions.[22] The board's duties were added to by the 1902 General Assembly, principally in the area of inspection and accreditation of teacher training facilities.[23] Further modification of the teacher certificate and examination law was made in 1906, with the major change being the expanded range of teaching certificates offered.[24] A 1917 act changed the membership by deleting the normal school president and adding the President of Iowa State Teachers College and President of the Iowa State College of Agriculture and Mechanic Arts.[25] In 1933, the Board underwent a further change in membership making it an entirely professional board.[26] That same 1933 act included an expanded offering in numbers and types of certificates.

A special commission was created by the General Assembly in 1907 for the purpose of codifying school law.[27] This commission was made up of three members appointed by the Governor, two of whom were required to be practicing attorneys and one of whom was to be an active educator. Another commission of this nature was authorized in 1941 for the purpose of recodifying school law, equalizing educational opportunity, etc.[28] The commission was composed of the State Superintendent of Public Instruction and four governor-appointed members. It was granted broad powers in gather-

---

[22] Ibid., s.5.

[23] Iowa, Laws (1902), c.115, s.1.

[24] Iowa, Laws (1906), c.122. See also Smith, op.cit., pp. 38-39.

[25] Iowa, Laws (1917), c.340.

[26] Iowa, Laws (1933), c.51.

[27] Iowa, Laws (1907), c.222.

[28] Iowa, Laws (1941), c.152.

ing information and in preparing its report.

In 1909, a State Board of Education was created but its purpose was to provide for the governance of the higher education institutions.[29] Board members were appointed by the Governor and confirmed by a 2/3 affirmative vote of the Senate. Members, with the exception of those on the first board, served six year terms. Three appointments were made to the nine-member board every two years and the board was scheduled to undertake its duties on July 1, 1909.

The General Assembly enacted a law in 1917 which established a board for vocational education.[30] This law provided for a three-member State Board for Vocational Education. The members, all state officials, were: the State Superintendent of Public Instruction, Chairman, the President of the State Board of Education, and the Chairman of the Bureau of Labor Statistics. This board was given broad powers in the area of vocational education. A state advisory committee was provided by the law and the State Board for Vocational Education was given the power to appoint these members.

In summary, Iowa had only one general purpose board up until 1950. That board was the Board of Education created under the 1857 constitution and abolished in 1864. Two special purpose boards, the Board of Educational Examiners created in 1861 and the State Board for Vocational Education created in 1917, constituted the principal state-level educational boards for Iowa education for the period 1864 to 1950. Some of the key events in the development of the Iowa State governing structure for elementary and secondary education, including the portion pertaining to the State Board of Education, can be

---

[29]Iowa, Laws (1909), c.170.

[30]Iowa, Laws (1917), c.290.

found in Figure 1.

State Superintendent of Public Instruction

In 1841, the Iowa Territorial Assembly established the office of Superintendent of Public Instruction.[31] Dr. William Reynolds served as the first and only Territorial Superintendent:[32] the office was abolished in 1842.[33]

When Iowa became a state in 1846, Article X of the Constitution (1846) called for the election of the State Superintendent of Public Instruction.[34] The Constitution called for a three-year term for the office and for the General Assembly to prescribe the duties of the State Superintendent. In implementing the Constitution, the General Assembly provided for the office of State Superintendent of Public Instruction, prescribed his duties, and permitted the State Superintendent to employ a clerk.[35]

As mentioned earlier, the 1857 Constitution abolished the office of State Sueprintendent of Public Instruction; a secretary to the Board of Education was provided in the Constitution and he was designated the board's executive officer. When the Board of Education met its demise in 1864, the office of State Superintendent of Public Instruction was recreated.[36] This same act also provided for a two-year elective term for the State Superintendent beginning with the General Election of 1835, and every two years thereafter. The State Superintendent's term began on January 1 of the year following the election. This act took effect in early April 1864; at the

---

[31]Iowa, Territorial Laws (1841), c.46.

[32]Smith, op.cit., p.2.

[33]Iowa, Territorial Laws (1842), c.108.

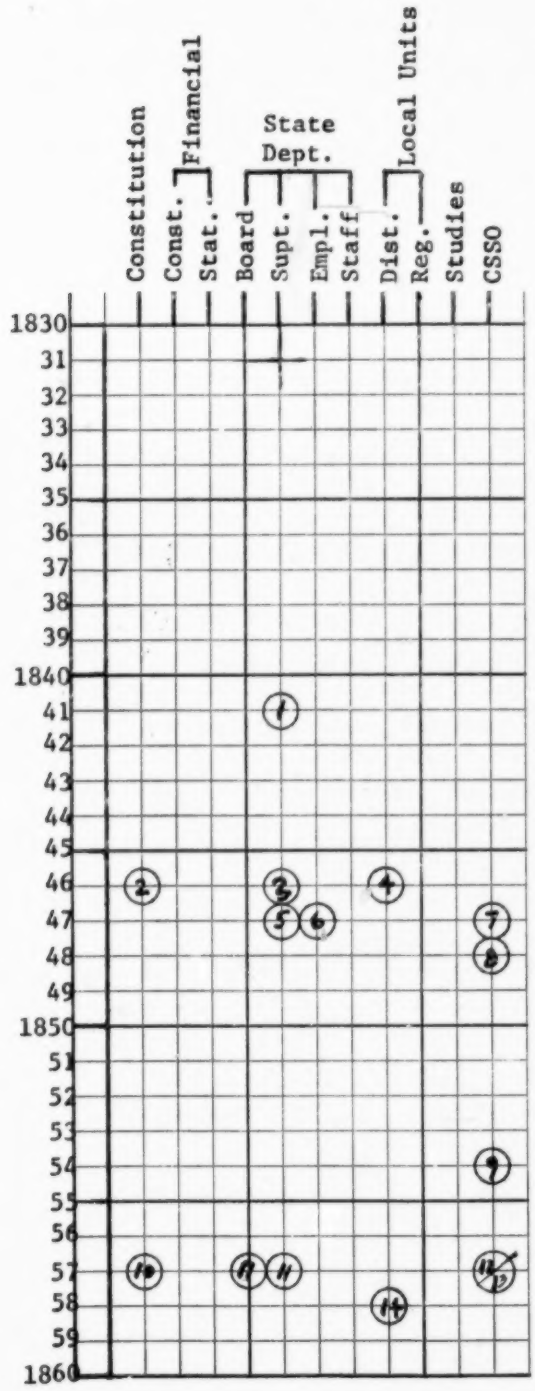
[34]Iowa Const. (1846) art. X, sec. 1.

[35]Iowa, Laws (1846), c.99, s.24-35.

[36]Iowa, Laws (1864), c.52, s.1-2.

FIGURE 1

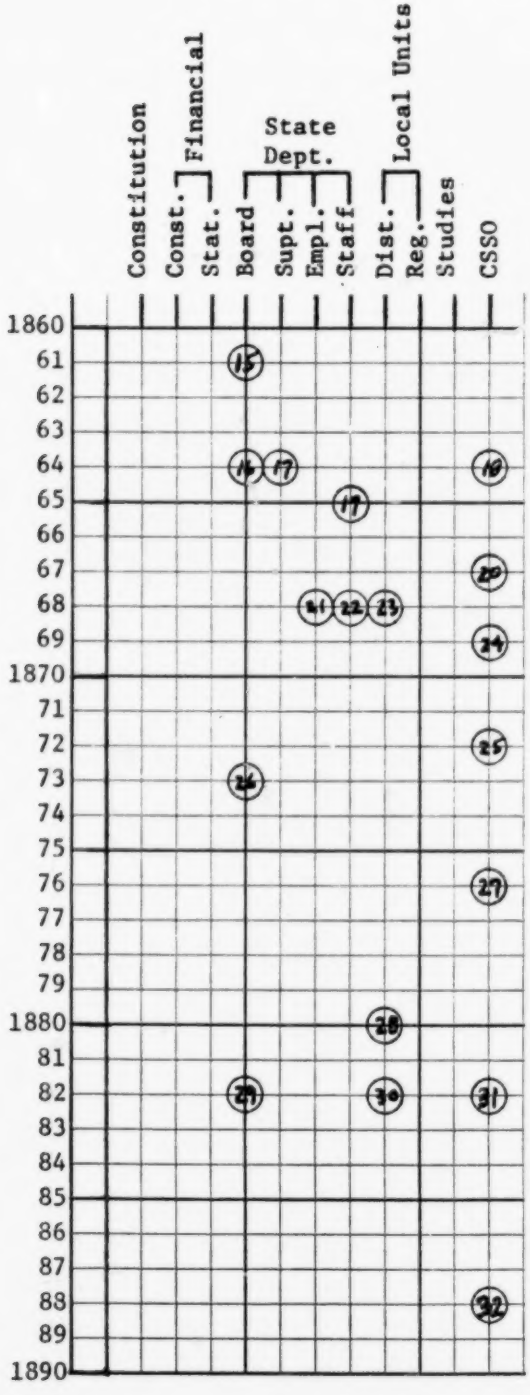
KEY EVENTS IN IOWA STATE EDUCATION AGENCY DEVELOPMENT



Events

1. Office of Territorial Supt. of Public Instruction was created in 1841 and was abolished in 1842. Dr. William Reynolds served in this position.
2. First Iowa Const. ratified December 1846; Constitutional Convention approved Constitution in May 1846; Statehood granted December 28, 1846.
3. See Event 2. Provided for an elected State Supt.
4. Establish township as basic unit known as school district.
5. Legislative implementation of Const. provision concerning elective State Supt. of Public Instruction.
6. Supt. permitted to have deputy (paid from his own salary).
7. James Harlan, 1847
8. Thomas H. Benton, 1848-54; Secy. to Board, 1858-64
9. James D. Eads, 1854-57
10. Second Iowa Const. adopted at convention, March 5, 1857
11. The office of State Supt. of Public Instr. was abolished by the Const. of 1857; the office of Secretary to the Board of Education was created.
12. Joseph C. Stone, 1857
13. M. L. Fisher, 1857-58
14. Ea. civil township declared a school district; cities and towns made separate districts.

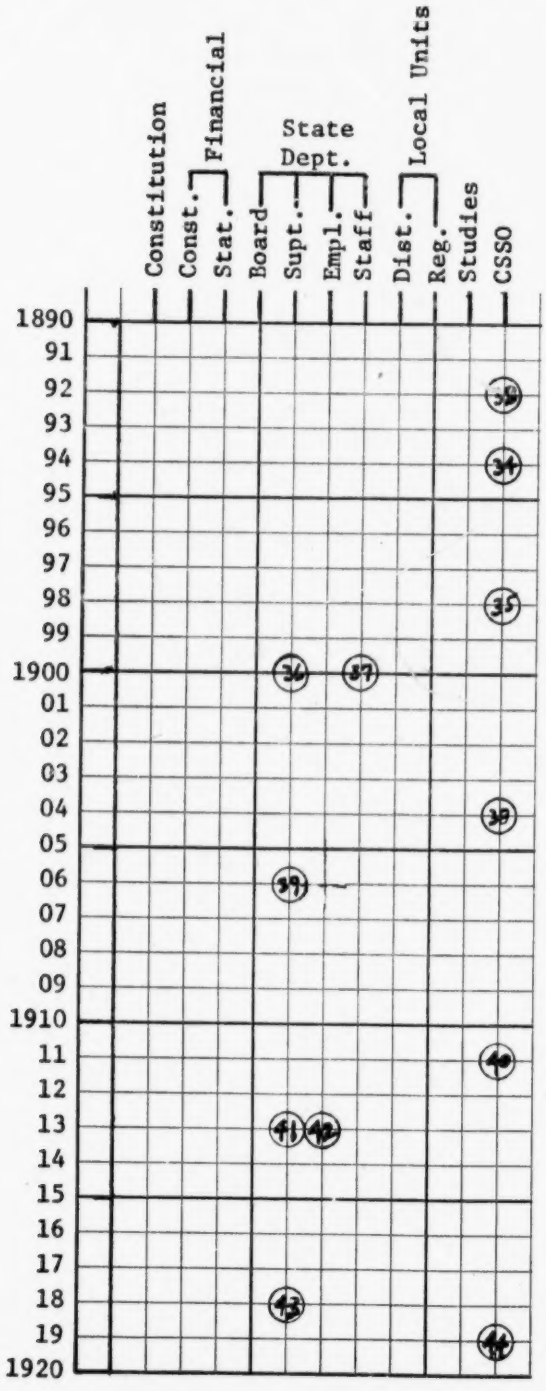
FIGURE 1--Continued



Events

15. State Bd. of Examiners created; a professional board.
16. The Bd. of Education was abolished.
17. The office of State Supt. of Public Instruction recreated.
18. Oran Faville, 1864-67
19. Staff size = 2 (Supt., Clerk)
20. D. Franklin Wells, 1867-69
21. Supt. of Public Instruction authorized a deputy.
22. Staff size = 3 (Supt., deputy, and clerk)
23. Independent school district defined more clearly.
24. A. S. Kissell, 1869-72
25. Alonzo Abernathy, 1872-76
26. State Bd. of Examiners abolished.
27. C. W. Von Coelln, 1876-82
28. Permitted subdivision of independent school districts.
29. Board of Educational Examiners was established; a professional board.
30. Permitted subtownships to become independent school districts.
31. J. W. Akers, 1882-88
32. Henry Sabin, 1888-92

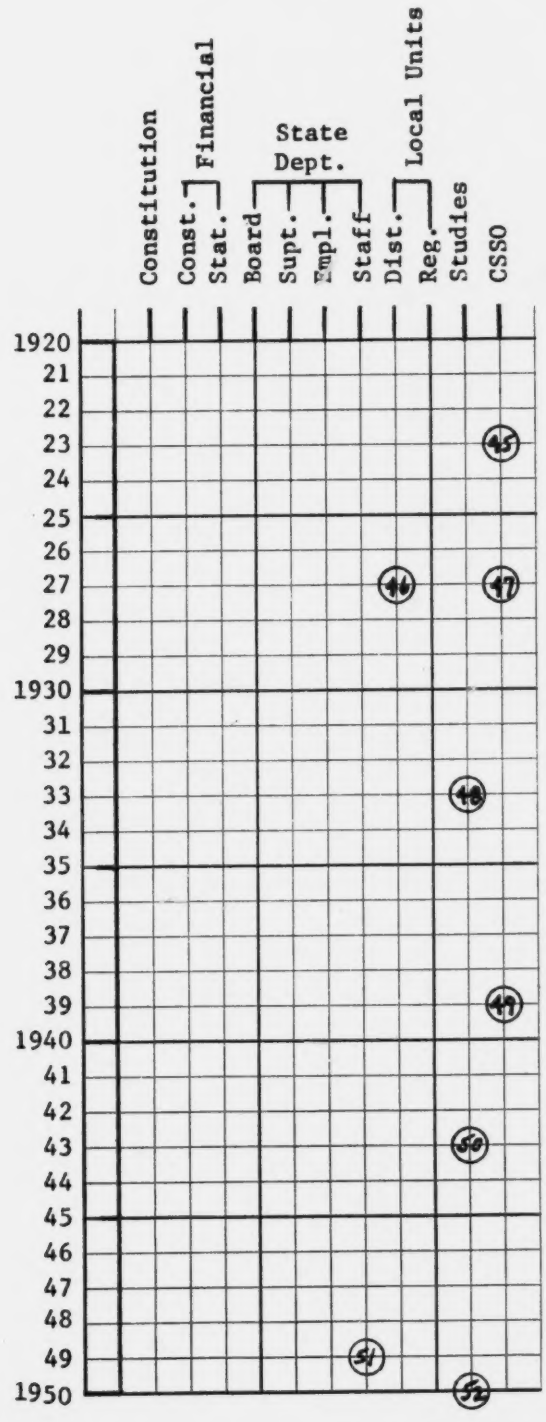
FIGURE 1--Continued



Events

33. J. B. Knoeppler, 1892-94
34. Henry Sabin, 1894-98
35. Richard C. Barrett, 1898-1904
36. State Supt. given authority to collect and disseminate school information and to inspect schools.
37. Staff size = 3 (Supt., Deputy, and Steno.)
38. John F. Riggs, 1904-11
39. A uniform procedure for licensing teachers established; transferred from local level to state level. Also received authorization to assist in the formation of consolidated independent districts.
40. Albert M. Deyoe, 1911-19
41. The office of State Supt. was made governor-appointed for four-year term.
42. Iowa Dept. of Public Instr. came into existence.
43. The office of State Supt. returned to elective basis for four-year term.
44. P. E. McClenahan, 1919-23

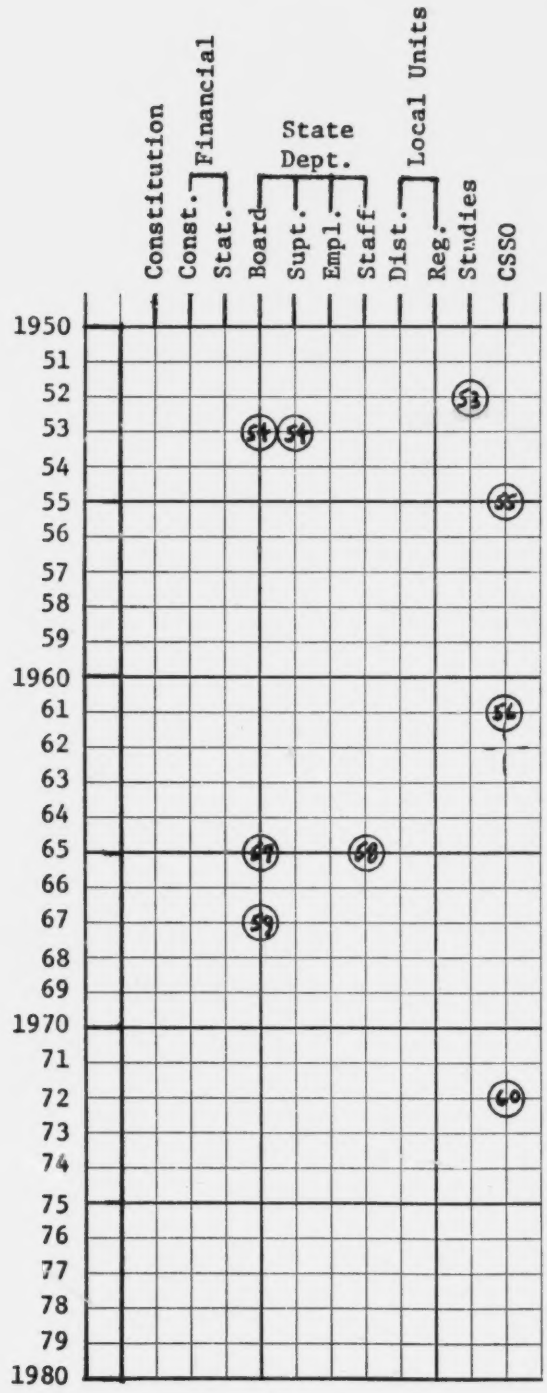
FIGURE 1--Continued



Events

45. May E. Francis, 1923-27
46. School districts authorized to have public junior colleges.
47. Agnes Samuelson, 1927-39
48. Brookings Institution study--Report on a Survey of Administration in Iowa
49. Jessie M. Parker, 1939- 5
50. School Code Commission
51. Staff size (6/30/49) = 151
    73 Prof., 78 Other
52. Governmental Reorganization Commission study--Report of the Governmental Reorganization Commission

FIGURE 1--Continued



Events

53. Griffenhagen Assoc. Report--Report on a Management Improvement Study of the Office of the Superintendent of Public Instruction
54. Board of Public Instruction created and the method of selection of the State Supt. of Public Instruction was changed (to the appointive method).
55. J. C. Wright, 1955-61
56. Paul F. Johnston, 1961-72
57. The method of selection of board members elected at district conventions was changed. New method required that each district convention submit two names to the Governor for final selection.
58. Staff size (12/31/1965) = 394
    199 Prof., 195 Other
    Staff size (7/1/1965) = 327
    161 Prof., 166 Other
59. The method of selection of Bd. of Public Instruction members changed. All members appointed by Governor with 2/3 Senate approval.
60. Robert F. Benton, 1972-Pres.

same time the office of Secretary of the Board of Education was eliminated.

In 1900, the General Assembly gave the State Superintendent the power to inspect schools and to collect and publish statistics on the state's schools.[37] The year 1906 saw the office of State Superintendent put on a two-year general election basis which made Iowa general elections coincide with the national elections.[38] The Department of Public Instruction was created in 1913.[39] In the same statute, the method of selection of the State Superintendent was changed from election to governor-appointment with a 2/3 majority of Senate members confirming the appointment. The tenure of the office was extended from two years to four years, and the person appointed by the governor assumed the office on July 1 after the appointment. Qualifications for the office were specified in the act as were the duties of the office. The office of State Superintendent of Public Instruction was returned to an elective method in 1918, and the tenure of the office remained at four years.[40] This was the last change made in the office up until 1954.

None of the Iowa State Superintendents of Public Instruction in office from 1864 until 1955 had served with a general purpose board. The two major boards, the Board of Educational Examiners and the State Board for Vocational Education, were small and had very special purposes to concern them. Both boards were, by statute, professionally dominated.

The Changes--the Period from 1950 to 1967

Iowa Government down through the years had financed a number of major

---

[37] Iowa, Laws (1900), c.94.

[38] Iowa, Laws (1906), c.36, s.3.

[39] Iowa, Laws (1913), c.103.

[40] Iowa, Laws (1917), c.318.

studies which examined the state's educational system, either as the major thrust of the study or as part of a larger study covering all of state government. One such large-scale study was performed by the Brookings Institution in the early 1930's. The Brookings Institution was engaged by the Iowa General Assembly to make a comprehensive study of Iowa state government. The final report, delivered in 1933, made several recommendations concerning state-level administration of education. Among them:

> 1. The State Board of Education should have the authority to appoint the State Superintendent of Public Instruction
> 2. The State Board of Education should have full authority to make rules and regulations for the public school system of the state.
> 3. The State Board of Education should be authorized, within budgetary limitations, to employ staff and clerical personnel for the Department of Public Instruction and to fix the compensation subject to state personnel law.
> 4. The State Board of Education should have full power to determine the qualifications of teachers, supervisors, inspectors, etc.
> 5. The State Board of Education, already in being and responsible for higher education, should assume control over the elementary and secondary educational system and should assume the powers given to the Board of Educational Examiners and the Board for Vocational Education.[41]

Other recommendations pertaining to education were made also. One of them included a suggestion that local schools be reorganized on a county-unit basis: this suggestion was made in the same year that West Virginia adopted its county unit plan.

The School Code Commissions of 1941 and 1943 recommended a strong State Board of Education with the board having the authority to appoint the State Superintendent.[42] Another broad scale study commission, the Governmental

---

[41]The Brookings Institute, Report of the Institute, Report on a Survey of Administration in Iowa (Des Moines, Iowa: State of Iowa, 1933), pp. 5,166. See also Pearson and Fuller, op.cit., p. 408.

[42]Pearson and Fuller, op.cit., p.408.

Reorganization Commission created by the Iowa General Assembly in 1949, recommended that the Governor appoint a Commissioner of Education who would appoint the Superintendent of Public Instruction.[43] Interestingly, the examiner covering the Department of Public Instruction during the 1949 study recommended to the Governmental Reorganization Commission that the office of State Superintendent of Public Instruction should be made appointive.[44] He also recommended that the Department of Public Instruction be placed under a board or commission.[45] One educational group, the Iowa State Teachers Association (or Iowa State Education Association as it was later called), had advocated an appointed state superintendent as early as 1913.[46]

The First Change, 1954

In 1953, the Iowa General Assembly passed a law which modified the entire state-level governing structure for elementary and secondary education.[47] One author pointed out that the governing structure adopted by the General Assembly represented a compromise between the State Superintendent, Jessie Parker, and the Iowa State Education Association (ISEA).[48] They both agreed on the concept of a board-appointed State Superintendent: however, Miss Parker wanted an elective board and the ISEA opted for a Governor-appointed board.

---

[43] Ibid. See also Iowa, Laws (1949), c.254.

[44] Governmental Reorganization Commission, Departmental Reports (Des Moines, Iowa: 1950). (Typewritten) See Department of Public Instruction.

[45] Ibid.

[46] Smith, op.cit., p.136.

[47] Iowa, Laws (1953), c.114.

[48] Smith, op.cit., p.137.

The principal features of this governing structure plan can be summarized as follows:

1. The State Board of Public Instruction was established as a nine-member lay board with members serving six year terms. The first board had three classes of membership--three persons serving two-year terms, three persons serving four-year terms, and two persons serving six-year terms. The ninth member was appointed by the Governor and confirmed by a two-thirds vote of the Senate.[49]
2. The elective members of the board, eight, were selected from the state's eight Congressional Districts through an elective process which involved a district convention.[50] Each county board of education and each city or urban district meeting certain criteria were permitted to designate delegates and alternates to the convention. Details for holding the convention were spelled out in the law.[51]
3. The board was given a broad list of powers and duties, spelled out in considerable detail, to perform.[52]
4. The Board of Educational Examiners and the Board for Vocational Education were abolished and the Board of Public Instruction was assigned their duties.[53]
5. The Board of Public Instruction was given the power to appoint the State Superintendent of Public Instruction effective January 1, 1955.[54] The State Superintendent was appointed to a four-year term by the board subject to confirmation by a 2/3 vote of the Senate. The duties and powers of the office were spelled out in detail in the law.[55]
6. The Department of Public Instruction was continued in the law, and the principle was established that the State Superintendent would make organizational and personnel changes subject to board approval.[56]

In short, this statute made substantial and far-reaching changes in the Iowa

---

[49] Iowa, Laws (1953), c.114, s. 1-3.

[50] District here means a Congressional District or a State Board of Public Instruction District since the boundaries are conterminous.

[51] Iowa, Laws (1953), c.114, s.5.

[52] Ibid., s.10-11.

[53] Ibid., s.26-27.

[54] Ibid., s.11.

[55] Ibid., s.17-18.

[56] Ibid., s.19-21.

educational governing structure. J.C. Wright, Superintendent of Schools at Keokuk, Iowa, was appointed by the Board of Public Instruction in June 1954 to serve as the State's first appointed State Superintendent of Public Instruction.[57] State Superintendent Jessie Parker served as the board's first executive officer during the year 1954: she completed her term as provided in the statute.[58]

The Second Change, 1965-67

State Superintendent Wright was followed in 1961 by Paul F. Johnston. In 1965, the General Assembly revised the method of selection of the Board of Public Instruction members by requiring that the District Conventions submit the names of two persons nominated for membership to the board to the Governor.[59] The Governor would then select one of the two nominees. Interestingly, the 1965 act gave the Board of Public Instruction broad powers in establishing standards for all of Iowa education up through grade 14.[60] However, the standards established by the Board were subject to submission and review by the Attorney General and the Rules Review Committee of the General Assembly.[61]

Another development came in 1967 when the General Assembly changed the method of selection of the Board of Public Instruction members to Governor appointed with the approval of two-thirds of Senate.[62] Not more than five members could be from the same party according to the terms of the statute.

---

[57] Pearson and Fuller, op.cit., p.408.

[58] Ibid.

[59] Iowa, Laws (1965), c.226, s.7-8.

[60] Ibid., s.2.

[61] Iowa, Laws (1963), c.66, s.2-7. This act provides a review procedure for rules and standards established by administrative agencies.

[62] Iowa, Laws (1967), c.244, s.23-26.

Since both the 1965 and 1967 acts did not establish new boards, only those board members whose terms expired were subject to the changes. Hence,the stability of the Board of Public Instruction and the Department of Public Instruction was not greatly affected. Paul Johnston continued in office as State Superintendent of Public Instruction until July 1972. Dr. Robert F. Benton was appointed by the Board of Public Instruction as State Superintendent and acceded to the office in July 1972.

A Review and Appraisal of the Governing Structure by the Iowa Study Participants

The study participants were asked a number of questions concerning the statutory changes made in 1953, 1965, and 1967 which affected the state-level governance of education. Iowa's total reliance on a statutory base for this structure presents somewhat of a different situation than that observed in any of the other four states.

First, all of the participants agreed that the basic structure established by the 1953 act of the General Assembly was quite satisfactory. The concept of a Board of Public Instruction and a board-appointed State Superintendent of Public Instruction seemed quite reasonable and practical to them. Several comments were made concerning the Board of Public Instruction, its method of selection, its role, etc. There was not total agreement on how the Board of Public Instruction should be selected. Some participants felt that the Board selected under provisions of the 1953 law, that is, the district convention elected board, was a very fine board: however, about an equal number of participants felt that a governor-appointed, senate-confirmed board was equally as good. The concept of a governor-appointed State Superintendent of Public Instruction did not receive much support nor mention from these participants. Most frequently cited as the reason for the changes in 1965 and 1967 to a governor-appointed, senate-confirmed board was the problem of

school reorganization which in the late 1950's and early 1960's eventually led to charges that the board was not responsive to the people. One participant stated that the Board of Public Instruction is in a very difficult position. The General Assembly has delegated much power to the local educational agencies and retains much control to itself as a result of the *Lewis Cons. School Dist. v. Johnston* decision in Iowa's Supreme Court.[63] This participant stated that these factors, together with occasional threats of political sanctions against the board, may have made the board somewhat timid to act on certain issues. Several participants indicated that the Department of Public Instruction has been considered a professional organization, and that the changes made in the governing structure were not directed at the Department per se. However, one of these participants did point out that since 50% of the staffing of the Department of Public Instruction was funded by sources out of the General Assembly's control, the Department naturally becomes of interest to the legislative body.

Second, all participants agreed that the transitions in 1954 and in 1965-67 occurred in a very smooth manner. In the case of the first transition, State Superintendent Parker was committed to the governing structure plan: the balance of her term as State Superintendent was protected by a provision in the law. Further, Miss Parker had no desire to continue as State Superintendent beyond her elected term. This one-year period, calendar year 1954, permitted the Board of Public Instruction some time in which to find a State Superintendent and to learn the full extent of powers being transferred to them. Personnel changes as a result of the transition of powers were practically non-existent. Normal attrition was responsible for

---

[63]Lewis Consolidated School District of Cass County v. Johnston, 127 N.W. 2d 118 (256 Iowa 236).

most of those that did occur. J.C. Wright, who was the first board-appointed State Superintendent of Public Instruction, served during a period in which a very significant reorganization of Iowa school districts took place. Considerable stress in Iowa's educational system resulted from these reorganization efforts and the changes made in the method of selection of board members in 1965 and 1967 probably stemmed from the "backlash" resulting from those efforts.

The 1965 and 1967 changes in the method of selection of Board of Public Instruction members likewise had no severe transition effects. In the first place, only those positions up for appointment were affected. As mentioned earlier, this meant three positions every two years. Thus, the board stability was not severely disrupted. In the second place, State Superintendent Johnston remained in his position through these changes. This provided stability within the Department of Public Instruction since the same basic administrative philosophy was involved. Several participants, directly involved with the Department, indicated that they had noted little difference in the operation of the Department as a result of the two governing structure changes.[64]

Third, the need for changing the state-level governing structure had been brought to the attention of the profession and the public a number of times down through the years. The demand for an appointed State Superin-

---

[64]Note: The 1965 and 1967 changes were quite interesting. Both changes came about as the result of additions made to bills which concerned completely different topics. The 1965 act was concerned with area vocational school districts and area community college districts. Both changes were "tacked on" near the end of the statutes, but only the 1967 statute contained mention of the changes in the title. As a matter of fact, the author was unable to locate either change in the index to the statutes for those years.

tendent of Public Instruction came early in the 1900's. This position was advocated by the Iowa State Education Association repeatedly over the years since then. A number of legislatively-financed studies had resulted in recommendations for an appointed State Superintendent of Public Instruction. Apparently, an essential ingredient for the 1953 change to ultimately come about was an agreement between State Superintendent of Public Instruction Jessie Parker and the Iowa State Education Association concerning the basic features of the governing structure.

The study participants also were queried about particular aspects of the governing structure statutes. With regard to:

Constitutional State Board of Public Instruction and State Superintendent of Public Instruction.-Several responded to this question and the opinion was divided. Two felt that it was best to leave it on a statutory basis: another suggested that there is definite value in putting the basic structure and powers in the Constitution. Leaving the structure and powers in statutory form permits the General Assembly to review and change the structure as needs and times dictate. On the other hand, putting the powers and structure in the Constitution enables the board of Public Instruction to face difficult problems, such as school reorganization, etc., head on without immediate retribution from the General Assembly.

Number of Board Members.-About half of the participants responded to this question. All agreed that the size of the board, nine, was just about ideal.

Type of Board.-Practically all of the participants felt that board control should be vested in lay members. Several participants suggested that experienced lay members or some professionals, not actively employed in the system, might be very useful to the board.

Representation, Geographical or Population.-All agreed that some sort of area representation is a good idea. Several suggested that the Congressional District was ideally suited for this purpose. The number of Congressional Districts in Iowa, eight in 1965, was nearly ideal for this purpose. (Note: The ninth member was appointed by the Governor.)

Political Balance on the Board.-Under the first board, an elected board, there was no control over this aspect. Under the governor-appointed, senate-confirmed board concept, a stipulation was included in the law which permits only a simple majority of the board to be of the dominant political party. Most

of the study participants felt that a political balance requirement was useful: several commented that it was their perception that the Iowa Board of Public Instruction had seldom, if ever, been divided on an issue on a partisan basis.

Term Length of Board Members.-Most of the participants responded to this question and they all agreed that the six-year term was about right as far as length is concerned. It provides enough time to get familiar with the task and yet is not too long to become excessively demanding of a member. One participant observed that prospective members of the board should understand that they are making a long-term commitment when they became board members.

Confirmation of Board Members.-Approximately half of the participants responded to this question. Most agreed that it had some value if done properly. However, one participant suggested that problems can arise if candidates names are "bottled up" in legislative committees without proper hearings.

Relations of the Board of Public Instruction with the Governor and the Legislature.-All but two responded to this question. Of these, all but one suggested that informal meetings of the Board of Public Instruction with the Governor, or his educational representative, and the two educational committees of the General Assembly would be useful. One felt that an annual report of the Board of Public Instruction to the General Assembly was all that was necessary. One of the participants supporting the informal meetings concept expressed the viewpoint that the lack of communications was one of the big problems in government and that anything done along these lines would be of assistance to all parties.

Several other observations were made by the participants of this study. The importance or effect of the civil service system on either the 1954, 1965, or 1967 transitions was apparently quite minimal. Civil service applies only to the secretarial, clerical, and comparable positions of the Department of Public Instruction. It does not apply to the professional-level positions. Several participants commented that there was distinct value in not having the professional-level positions under the control of the civil service agency. The rationale given for their position was the fact that the civil service agency has a tendency to underrate the positions. This tended to make it difficult to fill the positions with competent people and, as a result, the positions are carried on a vacant basis.

Most participants agreed that the legislature had adopted a "hands off" policy for a period of time after each major change was made--i.e., 1954 and 1967. This may have been more of an unplanned than planned strategy however. Another interesting point made by one of the participants concerned private schools--he opined that private schools should not be mentioned in the constitution because of the church-state entanglement issue.

Upon reviewing this chapter, one participant suggested that the creation, by the Iowa General Assembly, of the School Budget Review Committee in 1967 has resulted in the formation of another strong educational policy-setting agency.[65] This Committee, which has the authority to review and control budgets within the limitations of the law, is seen by this participant as reducing the importance of the Board of Public Instruction.

---

[65]Iowa, Laws (1967), c.356. Section 33 concerns the School Budget Review Committee. The Superintendent of Public Instruction, the State Comptroller, and three governor-appointed members (representative of the public and serving three-year staggered terms) make up the membership of the Committee.

APPENDIX I

IOWA

APPENDIX NUMBER	TITLE	PAGES FROM	PAGES TO
I.A.	Iowa Constitution (1846) Article X--Education and School Lands	38	39
I.B.	Iowa Constitution (1857) Article IX--Education and School Lands	40	42

APPENDIX I.A.

IOWA CONSTITUTION (1846)

ARTICLE X--EDUCATION AND SCHOOL LANDS

1. The General Assembly shall provide for the election, by the people, of a Superintendent of Public Instruction, who shall hold his office for three years, and whose duties shall be prescribed by law, and who shall receive such compensation as the General Assembly may direct.

2. The General Assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement. The proceeds of all lands that have been or hereafter may be granted by the United States to this State, for the support of schools, which shall hereafter be sold or disposed of, and the five hundred thousand acres of land granted to the new states, under an act of Congress distributing the proceeds of the public lands among the several States of the Union, approved, A.D. 1841, and all estates of deceased persons, who may have died without leaving a will, or heir; and also such per cent. as may be granted by Congress on the sale of lands in this State, shall be and remain a perpetual fund, the interest of which, together with all the rents of the unsold lands, and such other means as the General Assembly may provide, shall be inviolably appropriated to the support of common schools throughout the State.

3. The General Assembly shall provide for a system of common schools, by which a school shall be kept up and supported in each school district, at least three months in every year; and any school district neglecting to keep up and support such a school may be deprived of its proportion of the interest of the public fund during such neglect.

4. The money which shall be paid by persons as an equivalent for exemption from military duty, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, shall be exclusively applied, in the several counties in which such money is paid or fine collected, among the several school districts of said counties, in the proportion to the number of inhabitants in such districts, to the support of common schools, or the establishment of libraries, as the General Assembly shall, from time to time, provide by law.

5. The General Assembly shall take measures for the protection, improvement, or other disposition, of such lands as have been or may hereafter be reserved or granted by the United States, or any person or persons, to this State, for the use of a University; and the funds accruing from the rents or sale of such lands, or from any other source, for the purpose aforesaid, shall be and remain a permanent fund, the interest of which shall be applied

to the support of said University, with such branches as the public convenience may hereafter demand, for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant. And it shall be the duty of the General Assembly, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said University.

APPENDIX I.B.

IOWA CONSTITUTION (1857)

ARTICLE IX--EDUCATION AND SCHOOL LANDS

1st. Education

Section 1. Board of Education. The educational interest of the State, including Common Schools and other educational institutions, shall be under the management of a Board of Education, which shall consist of the Lieutenant Governor, who shall be the presiding officer of the Board, and have the casting vote in case of a tie, and one member to be elected from each judicial district in the State.

Sec. 2. Eligibility. No person shall be eligible as a member of said Board who shall not have attained the age of twenty five years, and shall have been one year a citizen of the State.

Sec. 3. Election of Members. One member of said Board shall be chosen by the qualified electors of each district, and shall hold the office for the term of four years, and until his successor is elected and qualified. After the first election under this Constitution, the Board shall be divided, as nearly as practicable, into two equal classes, and the seats of the first class shall be vacated after the expiration of two years; and one half of the Board shall be chosen every two years thereafter.

Sec. 4. First session. The first session of the Board of Education shall be held at the Seat of the Government, on the first Monday of December, after their election; after which the General Assembly may fix the time and place of the meeting.

Sec. 5. Limitation of sessions. The session of the Board shall be limited to twenty days, and but one session shall be held in any one year, except upon extraordinary occasions, when, upon the recommendation of two thirds of the Board, the Governor may order a special session.

Sec. 6. Secreatry. The Board of Education shall appoint a Secretary, who shall be the executive officer of the Board, and perform such duties as may be imposed upon him by the Board, and the laws of the State. They shall keep a journal of their proceedings, which shall be published and distributed in the same manner as the journals of the General Assembly.

Sec. 7. Rules and regulations. All rules and regulations made by the Board shall be published and distributed to the several Counties, Townships, and School Districts, as may be provided for by the Board, and when so made,

published and distributed, they shall have the force and effect of law.

Sec. 8. Power to legislate. The Board of Education shall have full power and authority to legislate and make all needful rules and regulations in relation to Common Schools, and other educational institutions, that are instituted; to receive aid from the School or University fund of this State: but all acts, rules, and regulations of said Board may be altered, amended or repealed by the General Assembly; and when so altered, amended, or repealed they shall not be re-enacted by the Board of Education.

Sec. 9. Governor ex officio a member. The Governor of the State shall be, ex officio, a member of said Board.

Sec. 10. Expenses. The Board shall have no power to levy taxes, or make appropriations of money. Their contingent expenses shall be provided for by the General Assembly.

Sec. 11. State university. The State University shall be established at one place without branches at any other place, and the University fund shall be applied to that Institution and no other.

Sec. 12. Common schools. The Board of Education shall provide for the education of all the youths of the State, through a system of Common Schools and such schools shall be organized and kept in each school district at least three months in each year. Any district failing, for two consecutive years, to organize and keep up a school as aforesaid may be deprived of their portion of the school fund.

Sec. 13. Compensation. The members of the Board of Education shall each receive the same per diem during the time of their session, and mileage going to and returning therefrom, as members of the General Assembly.

Sec. 14. Quorum--style of acts. A majority of the Board shall constitute a quorum for the transaction of business; but no rule, regulation, or law, for the government of Common Schools or other educational institutions, shall pass without the concurrence of a majority of all the members of the Board, which shall be expressed by the yeas and nays on the final passage. The style of all acts of the Board shall be, "Be it enacted by the Board of Education of the State of Iowa."

Sec. 15. Board may be abolished. At any time after the year One thousand eight hundred and sixty three, the General Assembly shall have power to abolish or re-organize said Board of Education, and provide for the educational interest of the State in any other manner that to them shall seem best and proper. (The board of education was abolished in 1864 by 10 GA, ch. 52, sec. 1.)

2nd. School Funds and School Lands.

Section 1. Control--management. The educational and school funds and lands, shall be under the control and management of the General Assembly of this State.

Sec. 2. Permanent fund. The university lands, and the proceeds thereof, and all monies belonging to said fund shall be a permanent fund for the

sole use of the State University. The interest arising from the same shall be annually appropriated for the support and benefit of said University.

Sec. 3. Perpetual support fund. The General Assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this State, for the support of schools, which may have been, or shall hereafter be sold, or disposed of, and the five hundred thousand acres of land granted to the new States, under an act of Congress, distributing the proceeds of the public lands among the several States of the Union, approved in the year of our Lord one thousand eight hundred and forty one, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent, as has been or may hereafter be granted by Congress, on the sale of lands in this State, shall be, and remain a perpetual fund, the interest of which, together with all rents of the unsold lands, and such other means as the General Assembly may provide, shall be inviolably appropriated to the support of Common schools throughout the State.

Sec. 4. Fines--how appropriated. The money which may have been or shall be paid by persons as an equivalent for exemption from military duty, and the clear proceeds of all fines collected in the several Counties for any breach of the penal laws, shall be exclusively applied, in the several Counties in which such money is paid, or fine collected, among the several school districts of said Counties, in proportion to the number of youths subject to enumeration in such districts, to the support of Common Schools, or the establishment of libraries, as the Board of Education shall, from time to time provide. (Similar constitutional provision, Art. XII, sec. 4. Analogous statute, sec. 666.3 of the Code.)

Sec. 5. Proceeds of lands. The General Assembly shall take measures for the protection, improvement, or other disposition of such lands as have been, or may hereafter be reserved, or granted by the United States, or any person or persons, to this State, for the use of the University, and the funds accruing from the rents or sale of such lands, or from any other source for the purpose aforesaid, shall be, and remain, a permanent fund, the interest of which shall be applied to the support of said University, for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant. And it shall be the duty of the General Assembly as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said University.

Sec. 6. Agents of school funds. The financial agents of the school funds shall be the same, that by law, receive and control the State and county revenue for other civil purposes, under such regulations as may be provided by law.

Sec. 7. Distribution. The money subject to the support and maintenance of common schools shall be distributed to the districts in proportion to the number of youths, between the ages of five and twenty-one years, in such manner as may be provided by the General Assembly.

BIBLIOGRAPHY

Books

"Iowa." Encyclopedia Britannica. 1962. Vol. XII.

Pearson, Jim B., and Fuller, Edgar, eds. Education in the States: Historical Development and Outlook. Washington, D.C.: National Education Association of the United States, 1969. See Chapter 15.

Public Documents

Iowa. Constitution (1846, 1857).

_____. Laws. (1846, 1858, 1864, 1882, 1900, 1902, 1906, 1907, 1909, 1913, 1917, 1933, 1941, 1949, 1953, 1963, 1965, 1967).

_____. Territorial Laws (1838, 1841, 1842).

Reports--Iowa Education

Abels, Leonard C. "Sources of School Law." Presented at the October 13, 1969, staff meeting of the Iowa State Department of Public Instruction. Des Moines, Iowa.

The Brookings Institute. Report of the Institute. Report on a Survey of Administration in Iowa. Des Moines, Iowa: State of Iowa, 1933.

Governmental Reorganization Commission. Departmental Reports. Des Moines, Iowa: 1950. (Typewritten.) See the Chapter entitled the Department of Public Instruction.

Smith, Richard N. Development of the Iowa Department of Public Instruction 1900-1965. Des Moines, Iowa: Department of Public Instruction, 1969.

Legal Cases

Lewis Consolidated School District of Cass County v. Johnston, 127 N.W. 2nd 118 (256 Iowa 236).

II - Kansas State Education Agency--
transition 1969

Contents

Pages

Brief History to 1965 49

Constitution 50

State Board of Education 51

State Superintendent of Public Instruction 59

The Change--The Period from 1965 to 1969 60

Colburn Study. 62

Legislative Response to Colburn Report 64

Implementation of the Amendment 67

The Change, 1966-69 72

A Review and Appraisal of the Governing Structure by the Kansas Study Participants 73

Appendix II - Kansas 79

II.A. - Kansas Constitution (1861) Article VI--Education 80

II.B. - Kansas Constitution (1861) Article VI (1966)--Education 82

II.C. - Colburn Committee-- Proposed Article VI (1965) 84

Table 2 - Comparison of the 1861 and 1966 Versions of Article VI of the 1861 Constitution 65

Figure 2 - Key Events in Kansas State Education Agency Development 52

Bibliography 87

KANSAS

STUDY PARTICIPANTS

Individual meetings held on February 26-28, 1973, in Topeka, Kansas, at the State Department of Education, Kansas State House, Topeka Schools Administrative Office, Kansas-NEA office, and Kansas School Boards Association Office.

HOST: Dr. C. Taylor Whittier
Commissioner of Education
Kansas State Department of Education
Topeka, Kansas 66612

STUDY ORGANIZER: Mrs. Margaret Van Horn
Secretary to the Kansas State Board of Education
Kansas State Department of Education
Topeka, Kansas 66612

PARTICIPANTS:

Dr. Merle Bolton, Sr.
Supt., Topeka Schools
415 West Eighth
Topeka, Kansas 66603
Supt., Topeka Schools 1962-Pres.

The Honorable John Bower
Kansas State House of Representatives
State Capitol Building
Topeka, Kansas 66612
Member of Kansas State House of Representatives 1953-Pres.
Chairman, House Education Committee 1961-71

Mr. Fred Carman
Asst. Revisor of Statutes
State Capitol Building
Topeka, Kansas 66612
Asst. Revisor of Statutes 1950-Pres.

Dr. George Cleland, Ret.
1256 Wayne
Topeka, Kansas 66604
Asst. Commissioner of Instructional Services, Kansas State Department of Education 1950-72

The Honorable John Frazier
1646 Knollwood Drive
Topeka, Kansas 66611
Chairman, Kansas State Board of Education 1971-Pres.
Member, Kansas State Board of Education 1970-Pres.

Mr. George Frey
Kansas-NEA
715 West 10th Street
Topeka, Kansas 66612
Director of Research, Kansas-NEA 1960-Pres.
Research Associate, Education Advisory Committee (Colburn) Committee) 1965-66

The Honorable Joseph Harder
Kansas State Senate
State Capitol Building
Topeka, Kansas 66612
Member of Kansas State Senate 1961-Pres.
Chairman, Senate Education Committee 1963-Pres.

Dr. Marvin (Mike) Harder
Legislative Liaison--Governor's Office
State Capitol Building
Topeka, Kansas 66612
Legislative Liaison--Governor's Office 1973-Pres.

The Honorable Murle M. Hayden, Ret.
1605 West 27th Street
Topeka, Kansas 66611
Acting Commissioner of Education 1969 (Jan.)-1969 (Oct.)
State Supt. of Public Instruction 1967-69
Asst. State Supt. of Public Instruction 1966-67
Member, Kansas State Department of Education 1952-72

Dr. Marion McGhehey
Kansas Association of School Boards
825 Western Avenue
Topeka, Kansas 66606
Exec. Dir., Kansas School Boards Association 1961-Pres.

CHAPTER II

KANSAS STATE EDUCATION AGENCY--
TRANSITION 1969

Brief History to 1965

The history and development of the Kansas Department of Public Instruction (now the State Department of Education) has been described in a chapter of a book dealing with the fifty state departments of education: the chapter was prepared by Adel F. Throckmorton, State Superintendent of Public Instruction from 1949-66.[1] The Territorial Legislature of Kansas passed an act which provided "for the Organization, Supervision and Maintenance of Common Schools," indicating that Kansas had an early interest in education.[2] This act, passed in 1859, came approximately five years after Kansas became officially recognized as a Territory on May 30, 1854. It detailed the educational structure, outlined duties of the various officials, provided details on financing education, etc.: in essence, it was a miniature educational code.

The first, and present, Kansas Constitution (The Wyandotte Constitution) was adopted by the Constitutional Convention on July 29, 1859, ratified on

---

[1] Jim B. Pearson and Edgar Fuller, eds., Education in the States: Historical Development and Outlook (Washington, D.C.: National Education Association of the United States, 1969), pp. 433-458. Chapter 16 concerns Kansas.

[2] Kansas, Acts (1859), c.116.

October 4, 1859, and Kansas was granted statehood on January 29, 1861.[3] This Constitution stated that "The Legislature shall encourage the promotion of intellectual, moral, scientific, and agricultural improvement, by establishing a uniform system of Common Schools, . . ."[4] The 1966 Amendment, which rewrote Article 6 of the Constitution, continued the major responsibility for education in the Legislature: the general supervision aspect of the Kansas educational system, i.e., the public schools, and other educational agencies, was placed in two agencies--the State Board of Education and the State Board of Regents.[5]

Constitution

The 1861 version of Article VI of the Constitution remained in effect until 1966. Only one amendment was added to Article VI of the Constitution during that period, that amendment being related to tax levies for the "use and benefit" of state educational institutions.[6] While the 1861 Constitution assigned the responsibility for "the general supervision of the Common School funds and educational interest of the State, . . ." to the State Superintendent of Public Instruction, it also specified election as the method of selection for this office.[7] The Kansas Legislature implemented the Constitution by specifying a two-year elective term beginning in 1862 and by permitting the office to run concurrently with the other state elective

---

[3]"Kansas," Encyclopedia Britannica, 1962, XIII, 259-63. See also U.S., An Act for the Admission of Kansas into the Union, January 29, 1861.

[4]Kansas Const. (1861) art. VI, sec. 2. A copy of Article VI can be found in Appendix II.

[5]Ibid., art. VI (1966 Amendment). A copy of Article VI (1966 Amendment) can be found in Appendix II.

[6]Kansas Const. (1861) art. VI, sec. 10. Proposed by: Kansas, Laws (1917), Senate Concurrent Resolution 15 (Chapter 352). Ratified in 1918.

[7]Kansas Const. (1861) art. I, sec. 1.

offices.[8]

State Board of Education

Kansas had experimented with a variety of state-level boards to assist the State Superintendent of Public Instruction in the supervision of the state's schools. These boards have ranged from special to general purpose and from professional to lay membership.[9] Figure 2 presents some of the key milestones in the development of the Kansas state governing structure for elementary and secondary education, including the portion pertaining to the State Board of Education. The legislature, acting upon the recommendation of the State Superintendent Hugh McCarty, established a State Board of Education in 1873.[10] This board, composed of ex officio state officers, had as its primary purpose the certification of teachers. The State Superintendent of Public Instruction, the Chancellor of the State University, the President of the State Agricultural College, and the principals of the State Normal Schools at Emporia and Leavenworth, comprised the membership of the board.

The next step in the development of special purpose boards came with the creation of the School Textbook Commission in 1897.[11] This board had as its basic purpose the development of a uniform, statewide textbook adoption program. Membership on the board consisted of eight governor-appointed, senate-confirmed members: not more than three of the members could come

---

[8]Kansas, Laws (1861), c.31.

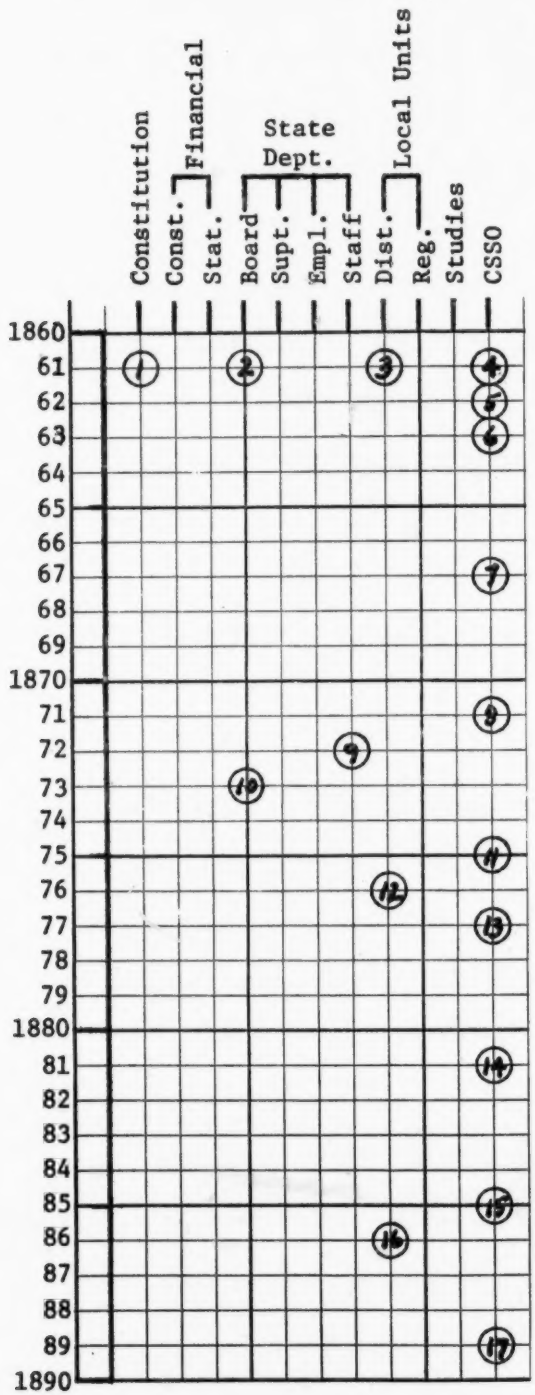
[9]One participant suggested that the various boards discussed on the following pages should not be considered as true forerunners to the 1969 elective board. Only this board succeeded to the powers of the State Superintendent of Public Instruction.

[10]Kansas, Laws (1873), c.133.

[11]Kansas, Laws (1897), c.179.

FIGURE 2

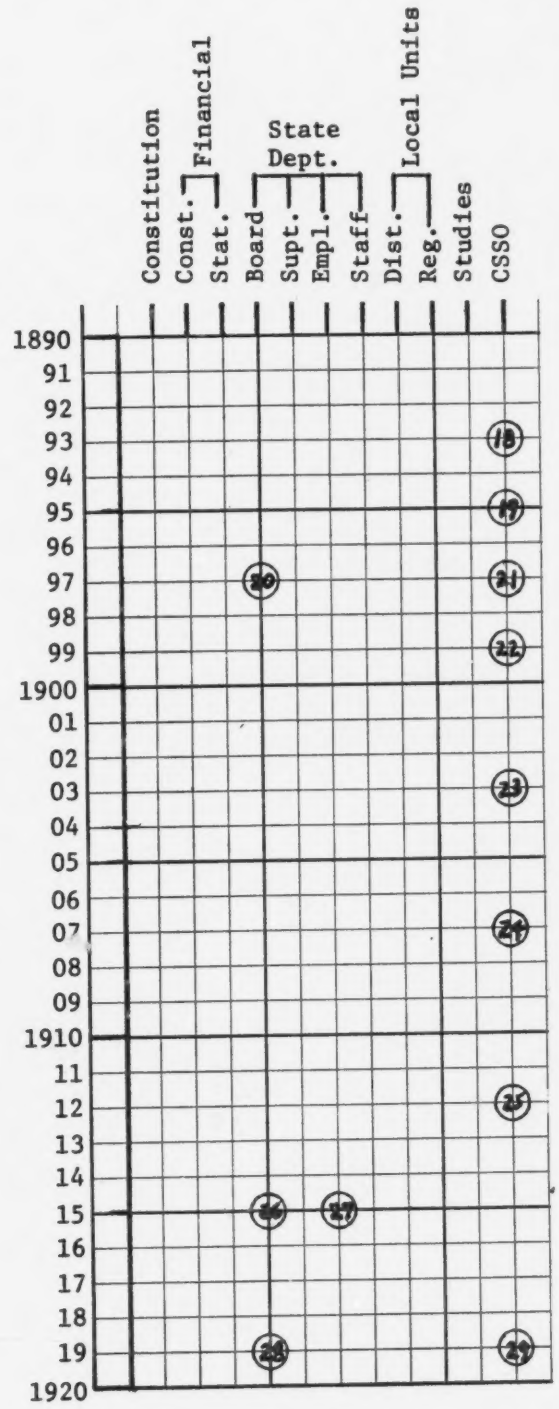
KEY EVENTS IN KANSAS STATE EDUCATION AGENCY DEVELOPMENT



Events

1. Constitution ratified and Kans. granted statehood on 1/29/1861.
2. Bd. of Commissioners created by Const., Art. VI, Sec. 9.
3. Creation of school districts on basis selected by county supt.
4. William Riley Griffith, 1861-62
5. Simeon Montgomery Thorp, 1862-63.
6. Isaac T. Goodnow, 1863-67
7. Peter MacVicar, 1867-71
8. Hugh DeFrance McCarty, 1871-75
9. 1872 Staff Size = 1 (Supt.)
10. First State Board of Education. Ex officio board, teacher certification primary function.
11. John Fraser, 1875-77
12. Legislation passed to permit the formation of City Dist.
13. Allen Borsley Lemon, 1877-81
14. Henry Clay Speer, 1881-85
15. Joseph Hadden Lowhead, 1885-89
16. Authorization of Secondary Dist.
17. George Wesley Winans, 1889-93

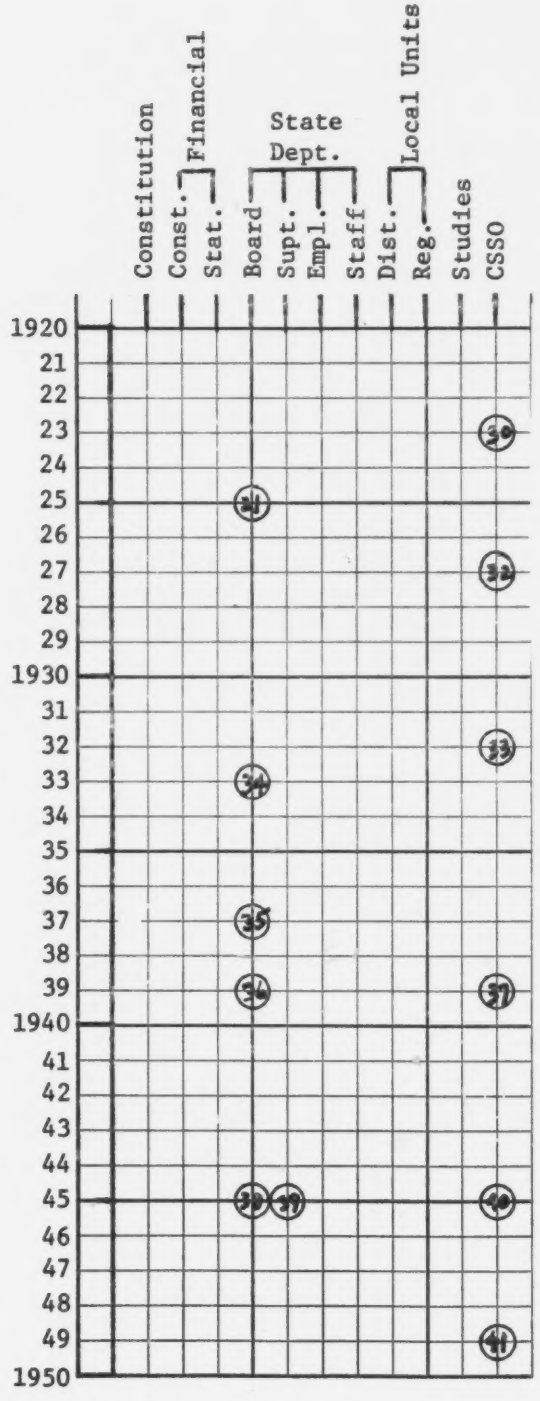
FIGURE 2--Continued



Events

18. Henry Newton Gains, 1893-95
19. Edmund Stanley, 1895-97
20. School Textbook Commission to create uniform statewide adoption system.
21. William Stryker, 1897-99
22. Frank Nelson, 1899-1903
23. Insley L. Dayhoff, 1903-07
24. Edward T. Fairchild, 1907-12
25. Wilbert Davidson Ross, 1912-19
26. Legislature defined roles of Supt. and State Board of Educ. Created State Department of Education. Some lay representation added to SBE.
27. Authorization of staff for State Department of Educ.
28. Eliminated lay representation from State Bd. of Educ. Also assigned Board responsibility for Vocational education.
29. Miss L. E. Wooster, 1919-23

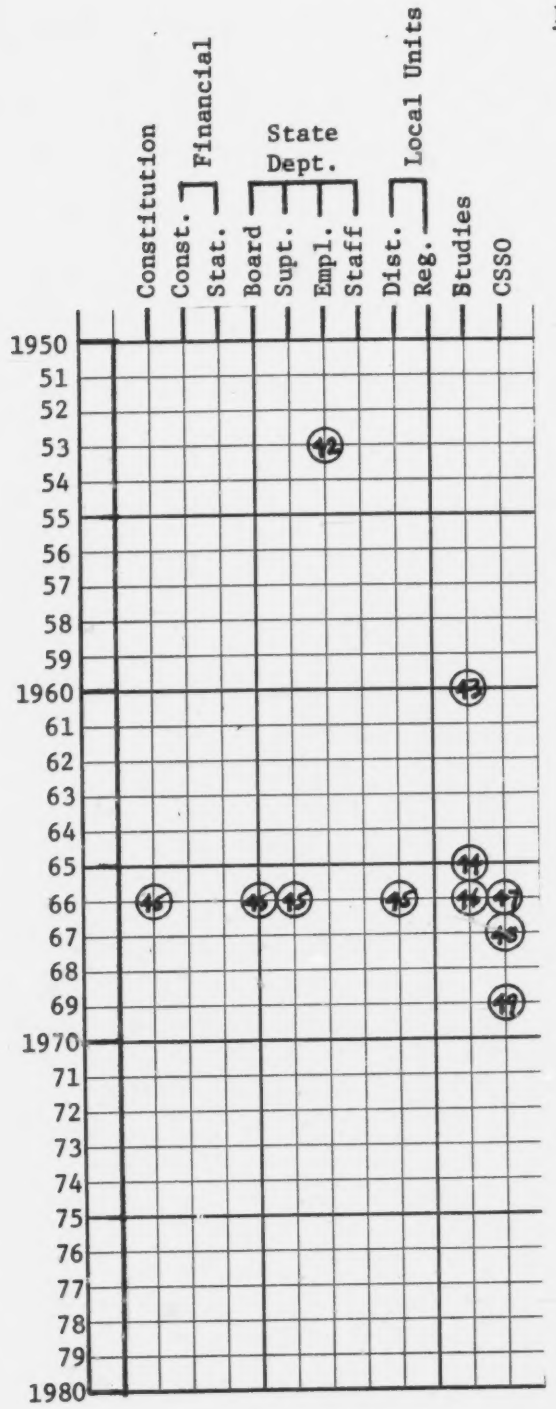
FIGURE 2--Continued



Events

30. Jess W. Miley, 1923-27
31. State Board of Regents created.
32. George A. Allen, Jr., 1927-32
33. W. T. Markham, 1932-39
34. Revised membership of State Bd. making it a largely professional board.
35. State Bd. picks up duties of School Textbook Commission.
36. State Bd. of Regents made 9-member, bipartisan board; governor-appointed, senate-confirmed members with 4-yr. terms.
37. George L. McClenny, 1939-45
38. Legislature devised a governor-appointed lay board. Removed most powers from board and gave them to Supt.
39. Qualifications placed on the office of State Supt.
40. L. W. Brooks, 1945-49
41. Adel F. Throckmorton, 1949-66

FIGURE 2--Continued



Events

42. Creation of State Department of Administration: affects personnel practices of SDE, particularly at clerical levels.
43. Domain study--Comprehensive Educational Survey of Kansas
44. Colburn Study(#1)--Report of the Education Advisory Committee to the Education Committee
45. Art. 6 (Education Act) of Kansas Constitution ratified.
46. Colburn Study(#2)--A Report of the Education Advisory Committee to the Committee on Education: On Proposal No. 45
47. W. C. Kampschroeder, 1966-67
48. Murle M. Hayden, 1967-69
49. C. Taylor Whittier, 1969-Pres.

from one party and no qualifications were placed on members other than the political qualification. The board remained in operation until 1937 at which time its functions were assigned to the State Board of Education.[12,13]

In 1915, the Kansas Legislature authorized the State Board of Education to become engaged in the inspection and accreditation of teacher training institutions and public schools.[14] This action was attributed to a recommendation of W.D. Ross.[15] The 1915 Legislature also created the State Department of Education, permitted a staff, and made a change in the board membership by adding lay members to the board.[16] The membership of the board at this time was as follows: State Superintendent of Public Instruction, Chairman, Chancellor of State University, President of State Agricultural College, President of Kansas State Normal School, and three other governor-appointed members. This act also permitted the appointment of a secretary by the board for the purpose of inspecting colleges and universities.[17] In addition to this recommendation, however, State Superintendent Ross was credited with suggesting that the State Superintendent's office should be made an appointive office.[18]

---

[12]Pearson and Fuller, op.cit., p.436. The 1945 date given on p.436 does not agree with the 1937 date on p.459. The 1937 date is consistent with the date given on p.458.

[13]Kansas, Laws (1937), c.303. The School Book Commission was abolished by this act and its functions transferred to the augmented State Board of Education. The state printer and state business manager were designated ex officio members of the board.

[14]Kansas, Laws (1915), c.296, 298.

[15]Pearson and Fuller, op.cit., p.437.

[16]Kansas, Laws (1915), c.296.

[17]Ibid.

[18]Pearson and Fuller, op.cit., p.437.

Other changes were made to the board over the years. The lay membership added in 1915 was removed in 1919.[19] The membership of the board created by the 1919 act was: State Superintendent of Public Instruction, Chairman, Chancellor of the State University, President of the State Agricultural College, President of the State Normal School at Emporia, President of State Manual Training Normal School at Pittsburg, President of Fort Hays Normal School at Hays, two county or city superintendents of public instruction, and a governor-appointed county superintendent of public instruction from a county other than ones represented by the aforementioned members. In 1917, the State Board of Education gained an additional duty when it was designated by the Legislature as the Board for Vocational Education.[20] Another change came in 1933 when the Legislature changed the board composition.[21] The State Superintendent of Public Instruction was made the ex officio chairman of this board. The eight governor-appointed members were: one member from among the faculty of the University of Kansas or the Kansas State College of Applied Science; one member from among the faculty of the three state teachers colleges located at Hays, Pittsburg, and Emporia; one member from the faculty of the privately endowed or denominational colleges in the State of Kansas; one county superintendent of public instruction, who shall serve only so long as he shall hold the office of county superintendent; one city school superintendent; one high school principal or superintendent from a fully accredited class A high school; and two members who shall be citizens of the state of Kansas and engaged in farming, business, or a professional occupation. Staggered four-year terms were specified in this act. This board inherited the duties of

---

[19]Kansas, Laws (1919), c.256.

[20]Kansas, Laws (1917), c.280.

[21]Kansas, Laws (1933), c.272.

the previous board and gained the additional duty of textbook adoption in 1937.[22]

A 1945 act of the Kansas Legislature restructured the state's education agency, calling it the State Department of Public Instruction.[23] This act, which provided a new State Board of Education, replaced the largely professional board established through the years since 1873 with lay membership. At the same time, the Legislature made the State Board of Education largely an advisory board and limited its powers to approving and disapproving the State Superintendent's policy proposals. One source states that difficulties between the State Board of Education and State Superintendent McClenny finally prompted the Legislature to make this rather dramatic change.[24] The 1945 State Board of Education was a governor-appointed body containing seven members and the governor was provided with a list of qualifications under which selections to the board were to be made. Among these qualifications were the prohibition of professionals from the board (i.e., actively engaged teacher, principal, or superintendent), the maintenance of political balance requirements (no more than four from the same political party), a requirement for Congressional district (i.e., population and.or geographical distribution) representation, a limitation on the number of urban representatives (i.e., board members from districts in cities of first or second class), and a restriction on the number of three-year terms that a member could serve (two).[25]

---

[22]Kansas, Laws (1937), c.303. See also note 12.

[23]Kansas, Laws (1945), c.282. See especially sec. 19 which pertains to to the State Board of Education.

[24]Pearson and Fuller, op.cit., p.438.

[25]Kansas, Laws (1945), c.282, sec. 19.

While this act specified that the board was to be advisory to the State Superintendent in all matters other than the powers assigned specifically to the board, it was a move in the direction of restoring the "general supervision" powers spelled out in the Constitution to the State Superintendent of Public Instruction. There remained, however, several problem areas.[26] The first concerned the adoption and printing of textbooks, a power assigned to the board in 1937 and not revised in the 1945 act.[27] The second problem concerned the board's responsibility for vocational education, a power assigned in 1917 and not mentioned in the 1945 act. The second problem area permitted the board to engage the services of an administrator for vocational education which, in effect, made two separate administrative organizations for elementary and secondary education in Kansas. This board, created in 1945, remained in effect until the implementation of the constitutional amendment in 1969. In 1965, the Legislature increased the State Superintendent's powers primarily at the post-secondary level, i.e., junior colleges and the state technical institute.[28]

State Superintendent of Public Instruction

Kansas' State Superintendent of Public Instruction has been a Constitutional officer since Kansas became a state in 1861. As mentioned earlier, the Constitution did specify election as the method of selection: the 1861 Legislature, in implementing the Constitution, provided for the election of

---

[26] Pearson and Fuller, op.cit., p.438.

[27] Kansas, Laws (1945), c.282, sec. 20,43,44.

[28] See for example: Kansas, Laws (1965), c.417 (Public Community Junior Colleges); Kansas, Laws (1965), c.410 (Uniform System of Free Schools); Kansas, Laws (1965), c.420 (Uniform System of Free Schools). See also comment in Pearson and Fuller, op.cit., p.439, regarding the "stripping" of powers by the Legislature from the State Board of Education.

the State Superintendent of Public Instruction on a partisan basis and for a two-year term.[29] The two-year term, running from the second Monday in January after the General Election, was called for by the Constitution.[30] This procedure for selecting the State Superintendent and his title remained unchanged until the ratification of the Constitutional Amendment in 1966.

One author reported that the relationship between the State Board of Education and the State Superintendent was not clearly defined and that this led to considerable confusion down through the years.[31] This source also pointed out that the tenure of State Superintendents over the years had averaged less than four years per term: this short tenure may have handicapped the leadership abilities of the various State Superintendents.[32]

It is interesting to note that the Kansas Legislature did place qualifications on the office in 1945: prior to this, there were no restrictions on the office other than those applying to other state officials.[33] The restrictions pertained to residence, experience, and educational attainment.

The Change--The Period From 1965 to 1969

A number of factors may have led the Kansas Legislature to adopt House Concurrent Resolution 537 on April 14, 1965.[34] The purpose of this resolution was to perform " a study of the scope, function, and organization of the state in supervisory education to comply with the constitutional require-

---

[29]Kansas, Laws (1861), c.31, sec. 1; Pearson and Fuller, op.cit., p.439.

[30]Kansas Const. (1861) art. I, sec. 1.

[31]Pearson and Fuller, op.cit., p.437.

[32]Ibid.

[33]Kansas, Laws (1945), c.282, sec. 5.

[34]Kansas, Laws (1965), c.428 (House Concurrent Resolution 537).

ment of a uniform system of public schools and in particular correlating supervision of programs under the State Superintendent of Public Instruction, the State Board of Education,. . ." The following factors have been proposed by the Kansas study participants as motivation for this study and the order of listing has no particular significance.

One factor was the importance of a legislatively-financed study in 1960: this study was important in the establishment of school district reorganization legislation which eventually was implemented in the period 1963-65.[35] Earlier unification legislation in 1945 and 1961 was declared unconstitutional by the Kansas State Supreme Court.[36] The importance of the Domian Study was indirect, however, since it suggested, and eventually led to, unification legislation. The school district unification legislation led to increased powers and responsibilities for the State Superintendent.[37] These powers, together with increasing responsibilities being placed upon the State Superintendent by federal legislation, caused many to contemplate on the role of the State Education Agency--the State Board of Education, the State Superintendent of Public Instruction, the State Department of Education, and the State Board for Vocational Education--and, in particular, the powers of the State Superintendent.

Another reason given for the interest in the Legislative study was related to the demands that has been raised over the years by educational

---

[35]Pearson and Fuller, op.cit., pp. 438-39. Study referred to was that of Otto E. Domian and Robert J. Keller, Comprehensive Educational Survey of Kansas (5 Vols. and a Summary; Topeka: Kansas Legislative Council, 1960).

[36]Ibid., p. 444.

[37]Ibid., p. 445.

interest groups, such as the Kansas State Teachers Association (now Kansas-NEA). A third reason given was that the distribution of powers among the two principal components of the State Education Agency was leading to conflict situations. Participants agreed that the incumbent at the time was certainly qualified and competent and that the concern was more over the concentration of powers in the one officer than an attack upon the incumbent. As a matter of fact, the incumbent recommended an elected board, board-appointed state superintendent concept in 1955.[38] The Domian Study of 1960 pointed out some of the weaknesses of the state-level organization of education and suggested the use of a board-appointed state superintendent.[39] Domian also suggested that vocational education ought to become an integral part of the State Department of Public Instruction instead of being separated from the rest of education.[40]

Colburn Study

The Kansas Legislative Council, the unit designed by the Legislature in House Concurrent Resolution 537 to make the study, established and funded an Educational Interim Committee chairmaned by John H. Colburn, Editor of the Wichita Eagle. Eleven prominent Kansas citizens, including Colburn, made up the committee. This committee completed the first phase of its work regarding the Constitutional Amendment and submitted a relatively short, but compedious, report on October 21, 1965.[41] The report contained a completely

---

[38] Ibid., p.438.

[39] Otto E. Domian and Robert J. Keller, Comprehensive Educational Survey of Kansas (Summary Report; Topeka, Kansas Legislative Council, 1960), p.90, 107-08.

[40] Ibid., p. 89-90, 107-08.

[41] Report on the Education Advisory Committee to the Education Committee, John H. Colburn, Chairman (Topeka, Kansas; Kansas Legislative Council, 1965). See Appendix II for a copy of the proposed Article VI.

rewritten Article VI and was organized around this recommended constitutional amendment, examining each section and subsection of the proposed amendment in detail. The principal recommendations given by the Colburn Committee can be summarized as follows:

> 1. That the Legislature continue to act as the state's agent for the provision of a system of schools and educational institutions, modifying the system as conditions change.[42]
> 2. That the Legislature provide for a State Board of Education which shall have general supervision of all public schools, educational institutions and related activities. The supervisional aspect includes vocational schools, community junior colleges, and all of the educatinal interests of the state except higher education Other duties, as established by law, could be assigned to the State Board as well.[43]
> 3. That the Legislature provide for a State Board of Regents which shall supervise public institutions of higher education and related activities. Higher Education institutions, as defined by the Committee, are those universities and colleges which grant baccalaureate or post-baccalaureate degrees. A further stipulation was included which permitted additional duties to be assigned to the State Board of Regents by law.[44]
> 4. That members of the State Board of Education and the State Board of Regents be appointed to terms of not less than six nor more than nine years as the Legislature prescribes. A special provision permitted the appointments for less than six years on the first boards in order to get the overlapping-term feature established.[45]
> 5. That the members of both boards be appointed by the Governor and confirmed by the Senate.[46]
> 6. That vacancies on either board be filled by the Governor as provided by law and that the Governor be empowered to remove a member on either board for cause as provided by law.[47]

---

[42] Ibid., p.5.

[43] Ibid., p.6-7.

[44] Ibid., p.11.

[45] Ibid., p.13.

[46] Ibid., p.14

[47] Ibid., p.16.

7. That the State Board of Education appoint, and fix the compensation of, a Commissioner of Education who serves as the Board's executive officer and at its pleasure.[48]

The interesting thing about this report is the fact that the constitution language is explained by the Committee and that the logic behind the language is detailed immediately below each section or subsection.

Legislative Response to the Colburn Report

The Colburn Committee report was studied by the Legislature during the 1966 session. One of the principal points of discussion of the Colburn report by the Legislature centered around the method of selection of members of the State Board of Education. Several of the Kansas study participants suggested that the feeling was quite strong for an elected board: not so much the result of pressure from a specific organization, or several organizations, but a general feeling of many legislators that the power for selection ought to reside with the electorate. There were other differences between the Colburn report recommendations and the Legislature's adoption: these differences have been highlighted in Table 2.

In a special session of the Legislature in 1966, House Concurrent Resolution 505 was adopted on March 2, 1966, for the purpose of placing a new Article VI before the voters of Kansas.[49] A copy of this article can be found in Appendix II. Governor Avery called the special session for the purpose of reapportioning the seats in the Kansas Legislature under the "equal protection" clause of Article XIV of the U.S. Constitution.

The amendment was submitted to the people on November 8, 1966 along

---

[48] Ibid., p.17.

[49] Kansas, Laws (1966-Special Session), c.10 (House Concurrent Resolution No. 505).

TABLE 2

COMPARISON OF THE 1861 AND 1966 VERSIONS OF ARTICLE VI OF THE 1861 CONSTITUTION
[Compared Against Colburn Committee Recommendations for Article VI]

Sect. No. of Art. VI Proposed by Colburn Comm.	Sect. No. of Art. VI 1861 Version & 1918 Amendment	Sect. No. of Art. VI 1966 Version
1. Schools and Related Institutions and Activities		
a) Legislature to organize educational system.	2.	1. Identical.
b) Racial, creed, sex or national origin discrimination prohibited in public education system.	No counterpart.	No counterpart.
2. State Board of Education and State Board of Regents		
a) Establishes state board of education and defines mission.	No counterpart.	2(a). Does not detail types of institutions.
b) Establishes state board of regents and defines mission.	No counterpart.	2.(b). Very similar.
c) Control of municipal universities.	No counterpart.	2.(c). Identical.
3. Members of State Board of Education and State Board of Regents		
a) Establishes overlapping terms of greater than 5 but less than 10 years and permits lesser terms in first boards.	No counterpart.	3.(a). State Board of Education--Provides for a 10-member elected board. 3.(b). State Board of Regents--Provides for a 9-member, governor-appointed board. All terms established by law.
b) Governor-appointed board, members confirmed by Senate.	No counterpart.	3.(b). State Board of Regents.
c) The filling of vacancies and removal of board members.	No counterpart.	3.(a). Vacancies on State Bd. of Education. 3.(b). Vacancies on State Bd. of Regents. 3.(c). Covers removal on both boards.
4. Commissioner of Education Apptd. by SBE; Exec. officer of the Bd. Bd. sets compensation of Commissioner.	1. Totally changed concept with regard to duties and method of selection.	4. Identical except that it is silent on compensation.

TABLE 2--Continued

Sect. No. of Art. VI Proposed by Colburn Comm.	Sect. No. of Art. VI 1861 Version & 1918 Amendment	Sect. No. of Art. VI 1966 Version
5. Local public schools Provides locally elected boards to manage public schools. Permits cooperative programs.	2. Greatly expanded.	5. Minor additions in language concerning the word "operated."
6. Finance		
a) Levy of permanent tax for public higher education institutions. Gives legislature power to provide for financing.	10.	6.(a). Almost identical. "Public" vs. "State" institutions of higher education.
b) Provides for flexibility in financing by permitting certain fund transfers; two-year appropriations; creation of special corporate entitites, etc., relating to educational or scientific research.	No counterpart.	6.(b). First sentence corresponds to first sentence of 6.(b). of Colburn report.
c) Provisions for the regulation of fees and tuitions by the two boards.	No counterpart.	6.(b). Provides that no tuition shall be charged public school students, and that fees or supplemental charges must be authorized by law. 6.(b). Permits State Bd. of Regents to establish fees, tuitions, and charges for institutions under its control.
d) Permits the two boards: 1) to allocate among and within institutions under their control such funds as legislature appropriates; and 2) to receive, manage, expend and invest funds from any source.	No counterpart.	No counterpart.
e) Prohibits religious sects from controlling any of the school funds.	8.	6.(c). Identical.
7. Fines to be appropriated for school purposes Requires proceeds of fines for breach of penal laws to be used for educational purposes.	6. Many of sources in this section no longer exist.	No counterpart.
8. Saving Clause		
a) Provides for disposition of laws consistent and in conflict with this article.	No counterpart.	7.(a). Identical.
b) Eliminates election as method of selection of Co. Supts. In effect, eliminated office.	1.	7.(b). Identical.
c) Permits Legislature to dispose of state perpetual fund; limits use to education.	9. School Fund Commission created here is eliminated in 1966.	7.(c). Minor changes in language.

with two other amendments and passed by a sizeable majority. The results were as follows:[50]

Amend. No.	Const. Art./Sec.	Topic	Yes(%)	No(%)
1	2/25	Established Annual Sessions of Legislature	331,479 (66.32)	168,382 (33.68)
2	11/11	Taxation of Income by Federal Law Reference	252,731 (53.05)	223,643 (46.95)
3	6/1-7	Revision of Article VI	286,400 (57.58)	211,027 (42.42)

Approximately 700,000 votes were cast for the office of Governor, indicating that about 70% of the voters exercised their right to vote on the Constitutional questions. The way was cleared to implement the Constitutional Amendment.

In 1968, the Kansas Legislature began the implementation of the Amendment. Implementation of a total rewrite of the educational article of the Constitution is no small task because many concepts were changed in the process. Many existing statutes were affected, if for nothing more than the fact that proper nomenclature had to be used for the names of boards and officers: hence, the importance of the "saving clause" in the amendment.

Implementation of the Amendment

Once again, the Kansas Legislature called upon the Colburn Committee for recommendations regarding the implementation of the Constitutional Amendment. The committee completed its work and prepared a report for delivery to the Kansas Legislative Council in November, 1966.[51] A number of recommendations for implementation were included of which a few of the principal ones are

---

[50]Information obtained from the Kansas Secretary of State's office by telephone on February 27, 1973.

[51]A Report of the Education Advisory Committee to the Committee on Education: On Proposal No. 45, John H. Colburn, Chairman (Topeka, Kansas: Kansas Legislative Council, 1966).

listed here:

1. That State Board of Education members be elected on a nonpartisan ballot. Permit two methods of designating candidates: (1) permit any citizen who wishes to file a declaration or petition with the Secretary of State, (2) use a governor-appointed commission of 10 members in each of the state's ten State Board of Education districts to nominate a candidate.[52]

2. That the date for the election of State Board of Education members be set for the first Tuesday in April of each odd-numbered year. This date corresponds with the date of election for members of the boards of unified districts who are also selected on a nonpartisan basis. This would provide a "state" issue for the election. Hold the first election in April 1968 (for the entire board), the second one in April 1969, and succeeding elections at two year intervals thereafter.[53]

3. That a six-year term be established for members and that the term begin on July 1 of the year in which they are elected. Members service would be limited to two consecutive six-year terms. The overlapping terms of the board members should be established in the first board by setting different term lengths.[54]

4. That local board of education members, employees of any school district, private school, or any educational institution be ineligible for membership on the board. The definition of lay membership thus becomes all persons eligible for elective office other than those excluded in the preceding sentence. A vacancy could be filled by an election in the affected district for the unexpired term. The governor should make interim appointments until the next election to assure that each district is represented on the board.[55]

5. That all statutory powers and duties be transferred from the State Superintendent of Public Instruction to the State Board of Education. The Commissioner of Education should be directed to execute the Board's policies and to supervise the administrative functions for the board.[56]

6. That the present Department of Vocational Education be placed as a division under the new State Board of Education. The activities of other state agencies which are related to schools should be reviewed and approved by the State Board of

---

[52] Ibid., p.1.

[53] Ibid., p.2.

[54] Ibid.

[55] Ibid., p.2-3.

[56] Ibid., p.3.

Education.[57]

7. That the Commissioner of Education serve at the pleasure of the board as its executive officer and administrative head of the department. Also no qualifications should be specified in statutes other than a statement concerning the fact that the Commissioner should have a broad background and administrative experience. The board should be permitted to set the salary of the Commissioner.[58]

8. That the State Board of Education be permitted to appoint an acting Commissioner, possibly the incumbent State Superintendent of Public Instruction as of July 1, 1968, to assist in the orientation of the new board and to facilitate a smooth transition.[59]

9. That the State Board of Education and the State Board of Regents develop liaison in the several areas of common interest which require cooperative development and administrative coordination. Vocational education was one of the areas mentioned: also mentioned were the Schilling institute and the developing community junior colleges. Specific mention was made of the fact that the power to transfer these institutions to the State Board of Regent's supervision could be accomplished if the Legislature chose to do so.[60] Other areas requiring coordination by the two boards included: (1) teacher education, (2) courses of study in high schools, junior colleges, and technical institutes, (3) admission requirements to colleges and universities by high school students, (4) state financing of education. Holding joint meetings and encouraging the administrative staffs to work together were suggested as means of fostering this kind of cooperation.

10. That a state-level advisory committee on vocational-technical education be established for the purpose of coordinating programs.[61]

11. That the State Board of Regents be established before July 1, 1969. The members should be appointed by the Governor for six-year terms subject to confirmation by the Senate. At least one member should represent each Congressional district and not more than one member can represent any given county. Terms should be staggered with three members being appointed each two years: the number of terms should be limited to two consecutive full terms. Terms should expire in December, thus enabling new appointees to become members prior to the beginning of the Legislative session. The committee also recommended that

---

[57] Ibid.

[58] Ibid., p.3-4.

[59] Ibid., p.4.

[60] Ibid., p.5.

[61] Ibid.

> five board members be members of the major political party and that four board members be members of the second largest political party as determined by the number of votes cast for the office of Secretary of State in the election of 1966. Persons currently serving as officers, faculty members, or employees of any public or private two-or four-year college or university should be excluded from board membership.[62]

Other recommendations appeared in the report as well but the above list provides a rapid review of the principal ones.

The Kansas Legislature performed the major implementation of the Constitutional Amendment during the 1968 session, especially that portion pertaining to the State Board of Education. Some of the principal provisions that were enacted were as follows:

> First, the Legislature established four-year terms for members; it made the election of board members coincident with the primary and general elections of other state officers, starting with the election in 1968; it provided that the board members should take office on the second Monday of January of the year following the election of members (the first board would take office on January 13, 1969, under the law); and, in order to stagger terms, the members of the first board elected to board member positions 1,3,5,7, and 9 were elected for two-year terms and the members elected to board member positions 2,4,6,8, and 10 were elected for four-year terms.[63] Members do run on a partisan ballot.[64]
>
> Second, the Legislature excluded from membership to the board state, school district or community junior college officers and employees.[65]
>
> Third, provisions for filling of vacancies on the board were made. Included was a stipulation for the governor to make an appointment from appointees selected by district political party conventions, to fill a vacancy. A further stipulation required that an appointee who has more than two years of a vacated term remaining face election at the next election for the remaining two years of the term.[66]

---

[62] Ibid., p.7.

[63] Kansas, Laws (1968), c.157.

[64] Ibid., c.269, sec. 4(a).

[65] Ibid., c.157, sec. 4.

[66] Kansas, Laws (1968), c.269, sec. 4; Kansas, Laws (1968) C.157, sec. 6(c).

Fourth, the office of State Superintendent was abolished on January 14, 1969.[67]

Fifth, the board was granted those powers given it by the Constitution only "as such powers are more specifically described and defined by law."[68]

Sixth, a provision was made in the law for the appointment of an acting Commisssioner of Education and the law permitted meetings of the State Board of Education prior to January 13, 1969.[69]

Seventh, the appointment, compensation, and civil service status of employees was provided for in the law.[70] All employees are appointed by the State Board of Education: all except the Commissioner and Assistant Commissioners are in the classified service, i.e., included in the Kansas Civil Service Act. All employees except assistant commissioners and employees of the Division of Vocational Rehabilitation were protected by the law during the transition.[71]

Eighth, the powers assigned to the Kansas State Board of Education included the following:

> "(a) Adopt and maintain standards, criteria, guidelines or rules and regulations for the following:
>
> (1) School libraries and textbooks and other educational materials;
> (2) Courses of study and curriculum;
> (3) Accredit schools including elementary, secondary and junior colleges, public and nonpublic;
> (4) Certification of administrators, teachers, counselors, and supervisors of school districts and of the state department of education and of teachers and administrators of non-public schools;
> (5) Have general supervision of school nurses.
>
> (b) Administer the laws of this state concerning the matters named in this section and all other matters

---

[67] Kansas, Laws (1968), c.269, sec. 8.

[68] Ibid., sec. 3(c). It could be argued that the clause in quotes is the factor which limits the Constitutional provisions from being self-executing: this is the Legislature's check to insure that the State Board of Education does not engage in areas of "general supervision" of the schools that it does not intend for it to be involved in.

[69] Ibid., sec. 15, 30.

[70] Ibid., sec. 16-19.

[71] Ibid., sec. 19.

> relating to the general supervision of the public schools and institutions under the supervision of the state board of education."[72]

The Change, 1966-69

In September 1966, Dr. Throckmorton, the State Superintendent of Public Instruction, resigned his office.[73] Mr. W. C. Kampschroeder, Assistant State Superintendent, was appointed by the Governor to fill out the term of Throckmorton. He ran in November 1966 and was elected State Superintendent for a full two-year term beginning in January 1967, As mentioned earlier, the same ballot carried on it the Constitutional amendment pertaining to the education article and the amendment was ratitified by the voters. Since the constitutional amendment passed, a clause in it insured that the incumbent would be the last elected State Superintendent. State Superintendent Kampschroeder died as the result of an automobile accident on November 8, 1967.

Mr. Murle M. Hayden was appointed by Governor Docking as the State Superintendent of Public Instruction to serve out Kampschroeder's unexpired term. Mr. Hayden served from December 5, 1967 through January 12, 1969, as State Superintendent of Public Instruction and from January 13, 1969, through September 30, 1969, as Acting Commissioner of Education. The appointment of an Acting Commissioner by the State Board of Education was provided for in the implementing statute and this provided the State Board of Education an opportunity to make a relatively unhurried choice for Commissioner of Education. Acting Commissioner Hayden was near retirement and did not wish to be considered by the Board as a candidate for the office.

The State Board of Education initiated a nationwide search for a

---

[72] Ibid., c.327. One participant pointed out that the Board has broad rule-and regulation-making authority given by:Kansas, Laws (1968), c.269, sec.28.

[73] Pearson and Fuller, op.cit., p.440.

candidate to fill the office of Commissioner of Education. A special brochure was prepared advertising for candidates and it stated that nominees for the position should:

> "Hold an earned doctoral degree with a liberal proportion of training and experience in the fields of educational leadership and administration.
>
> Be recently or currently active as an educator or administrator in a school system; an accredited junior college; a department, school or college of education of an accredited college or university; a state or federal agency; or other agencies, including foundations.
>
> Have leadership capacity, with ability to define educational policies or goals.
>
> Have demonstrated competence in public relations through both oral and written communications.
>
> Be a person of such character, stature, and poise that he will hold professional and public confidence and respect."[74]

In September 1969, the State Board of Education appointed Dr. C. Taylor Whittier as Commissioner of Education,and Dr. Whittier took office on October 1, 1969.

A Review and Appraisal of the Governing Structure by the Kansas Study Participants

A number of questions were posed to the Kansas study participants concerning the educational governing structure established by the 1966 Constitutional Amendment. In this study group, there was no interchange of opinions among participants: each participant was interviewed on an individual basis.

First, there was general satisfaction with the amendment itself. However, there were several areas of the amendment which received comment. More than half of the participants felt that State Board of Education members should be selected by some method other than election. Of these partici-

---

[74]State Board of Education, "The Board of Education of the State of Kansas invites nominations for the position of Commissioner of Education," Topeka, 1969. (Printed.)

pants, most preferred the approach which would provide for the selection of State Board of Education members by the Governor with confirmation by the Senate. One participant suggested that some board members might be appointed by the Governor with the remainder being appointed by the Legislature. Another participant suggested that the cabinet form of government might be better yet, with the Commissioner of Education being chosen by the Governor.

Several participants expressed concern over the powers of the board as spelled out in the Constitution, particularly were they concerned about the very vague and general nature of these powers. This vagueness, in their opinion, is such so as to require Legislative action or implementation on any major undertaking of the board in fulfilling its general supervisory responsibilities.[75] In short, the powers of the State Board of Education under Article VI of the Constitution are not "self-executing." Another participant saw no need for specifying the election of members of local school boards in the Constitution.

Second, all participants agreed that the transition occurred in a smooth and satisfactory manner. Several reasons were advanced by the participants for this: (1) an already existing civil service system which protected many of the employees of the agency, (2) a provision in the 1968 law, mentioned above, which protected all classified service positions in the process of transition from the old State Department of Public Instruction to the new State Department of Education, (3) the appointment of the State Superintendent of Public Instruction as Acting Commissioner of Education during the early formation and development of the board, and (4) the attention of

---

[75] One participant, in reviewing this chapter, suggested that this vagueness is a virtue and that he was not aware of any contrary opinion on this subject.

the board was focused on the selection of the Commissioner during the early months of the board's life so that internal problems were not of primary concern and, hence, a time for adjustment by personnel was automatically provided. Several participants observed that there was some uncertainty in the department during the transition, especially at the higher levels, but that this did not appear to be excessive or undue.

With regard to the civil service system, several participants pointed out that there is at least one distinct disadvantage to having the professional personnel under the system. They indicated that there is a reluctance on the part of the civil service board to develop pay scales for these personnel which are realistic in terms of the expertise and experience required of these professional personnel. These participants then called upon data from local school districts to emphasize their point. Another participant felt that the transition was probably too long: that it should be shortened and that the board should have its commissioner selected when it assumes office.

Most participants agreed that the Legislature adopted a "hands-off" policy policy towards the board for several years until the board got established. This was not perceived of as a deliberate strategy but one which just sort of evolved.

Third, the need for change in structure was being felt in the Legislature as a result of the demands of school district patrons and professional organizations. Most participants agreed that the Domian Study of 1960 laid the basis for the need to change. Its immediate effect was in the school district reorganization area. The fallout from the school reorganization problems, plus the Kansas Supreme Court's ruling regarding a school redistricting law which held that it was unconstitutional to assign legislative powers to non-constitutional offices or boards, encouraged the 1965 Colburn study. However,

the cry for a different structure was raised much earlier. As early as 1944, the Kansas State Teachers Association pointed out the need for change and suggested an appointive school officer.[76] One participant recalled similar demands being voiced in the early 1930's. Most participants felt that the change actually was delayed a number of years because of general satisfaction with the performance and competency of State Superintendent Throckmorton. When it finally did occur, he was near the age of retirement. Most participants agreed that Dr. Throckmorton was generally supportive of the amendment and its concept as was his successor, Mr. Kampschroeder, the last elected State Superintendent of Public Instruction.

The participants were queried further on some particular aspects of governing structures and the constitutional and legislative implementation resulting therefrom. With regard to:

> Constitutional State Board of Education and Commissioner.- Most participants agreed that there should be a Constitutional State Board of Education. One felt that it was not necessary to make the Commissioner of Education a Constitutional Officer. Most agreed that a Commissioner of Education, appointed by the State Board of Education to serve at the board's pleasure, were essential aspects of the governing structure framework.
>
> Lay Membership on Board.-All participants agreed that lay control of the board was essential. Several observed that having some professional membership on the board has some advantages: they qualified this by saying that no member should be actively employed in the school system.
>
> Representation.-Most participants agreed that some requirement concerning geographical or population representation was an essential requirement in Kansas.
>
> Political Balance on Board.-This does not, of course, apply to an elective board. However, if the choice had been a governor-appointed board, the participants would have favored a political balance requirement, such as the one

---

[76]The Kansas State Teachers Association, The State Department of Education in Kansas (Bulletin No. 2, Series of 1945; Topeka, Kansas: The Kansas State Teachers Association, 1944).

employed in the development of the State Board of Regents legislation. Several participants observed that, to their knowledge, partisan political divisions on specific issues simply had not occurred on either the State Board of Education or the State Board of Regents.

Term Length of Members.-Several participants ventured opinions on this subject. The feeling expressed was that 4-to 6-year terms are reasonable and that members should be eligible for reappointment.

Confirmation of Board Members.-Again, this does not apply to an elective board. However, if the choice had been a governor-appointed board, the participants who replied favored a confirmation process as part of a checks and balances system.

Relations of the State Board of Education with the Governor and the Legislature.-Almost every participant agreed that a closer involvement with the Governor and Legislative leaders would be valuable. The view expressed by several was that meetings should be largely unstructured and informal situations and held on a periodic basis.

Other opinions were secured from the study participants as well. One of the problem areas with the elective board, as perceived by several of the participants, was that related to obtaining a sufficient number of high quality candidates. Other participants observed that a State Board of Education should have a good rapport with the Legislature and should be concerned with statewide policies and issues: less board effort and concern should be devoted to regulation-type activities. This same theme was mentioned by several participants in the local-vs. state-power issue. Most viewed vocational education as an integral part of total education and therefore it should be an activity under the State Board of Education and its Commissioner.

One problem area in the current law which was pointed out by a participant was the requirement of six votes to pass an issue while specifying six members as a quorum. This leads to situatins, in periods of low attendance, when all members would be required to vote affirmatively on an issue in order to pass it. Another area which several participants felt might have been handled differently was that related to the salary of the Commissioner

of Education. Currently, the Commissioner's salary is established in an appropriations law at a level lower than these participants felt it should be. These same participants suggested that this issue should have been established as a prerogative of the State Board of Education: that is, to set salaries, including the Commissioner's, within the limits of the appropriation.

In the way of suggestions to other agencies, one participant suggested the importance of the computer search capabilities on statutes contained in the ASPEN system. This capability is extremely important when the name of a board or office changes, such as in the Kansas situation, and a vast number of laws are affected.

APPENDIX II

KANSAS

APPENDIX NUMBER	TITLE	PAGES FROM	PAGES TO
II.A.	Kansas Constitution (1861) Article VI--Education	80	81
II.B.	Kansas Constitution (1861) Article VI (1966)--Education	82	83
II.C.	Colburn Committee--Proposed Article VI (1965)	84	86

APPENDIX II.A.

KANSAS CONSTITUTION (1861)

ARTICLE VI--EDUCATION

Sec. 1. The State Superintendent of Public Instruction shall have the general supervision of the Common School funds and educational interest of the State, and perform such other duties as may be prescribed by law. A Superintendent of Public Instruction shall be elected in each county, whose term of office shall be two years, and whose duties and compensation shall be prescribed by law.

Sec. 2. The Legislature shall encourage the promotion of intellectual, moral, scientific and agricultural improvement, by establishing a uniform system of Common Schools, and Schools of a higher grade, embracing normal, preparatory, collegiate, and university departments.

Sec. 3. The proceeds of all lands that have been, or may be, granted by the United States to the State, for the support of Schools, and the five hundred thousand acres of land granted to the new States, under an act of Congress distributing the proceeds of public lands among the several States of the Union, approved September 4, A.D. 1841 and all estates of persons dying without heir or will, and such per cent. as may be granted by Congress, on the sale of lands in this State, shall be the common property of the State, and shall be a perpetual School fund, which shall not be diminished, but the interest of which, together with all the rents of the lands, and such other means as the Legislature may provide, by tax or otherwise, shall be inviolably appropriated to the support of Common Schools.

Sec. 4. The income of the State School funds shall be disbursed annually, by order of the State Superintendent, to the several County Treasurers, and hence to the Treasurers of the several School districts, in equitable proportion to the number of children and youth resident therein, between the ages of five and twenty-one years; *Provided,* That no School District, in which a Common School has not been maintained at least three months in each year, shall be entitled to receive any portion of such funds.

Sec. 5. The School lands shall not be sold unless such sale shall be authorized by a vote of the people at a general election; but, subject to revaluation every five years, they may be leased for any number of years not exceeding twenty-five, at a rate established by law.

Sec. 6. All money which shall be paid by persons as an equivalent for exemption from military duty; the clear proceeds of estrays, ownership of which shall vest in the taker up; and the proceeds of fines for any breach of the penal laws, shall be exclusively applied in the several counties in which

the money is paid or fines collected, to the support of Common Schools.

Sec. 7. Provision shall be made by law for the establishment, at some eligible and central point, of a State University, for the promotion of literature, and the arts and sciences, including a Normal and an Agricultural department. All funds arising from the sale or rents of lands granted by the United States to the State for the support of a State University, and all other grants, donations or bequests, either by the State or by individuals, for such purpose, shall remain a perpetual fund, to be called the "University Fund;" the interest of which shall be appropriated to the support of the State University.

Sec. 8. No religious sect or sects shall ever control any part of the Common School or University funds of the State.

Sec. 9. The State Superintendent of Public Instruction, Secretary of State and Attorney General shall constitute a Board of Commissioners, for the management and investment of the School funds. Any two of said Commissioners shall be a quorum.

Sec. 10. The legislature may levy a permanent tax for the use and benefit of the state educational institutions and apportion among and appropriate the same to the several institutions, which levy, apportionment and appropriation shall continue until changed by statute. Nothing herein contained shall prevent such further appropriation by the legislature as may be deemed necessary from time to time for the needs of said state educational institutions. (Section 10 Ratified in 1918).

APPENDIX II.B.

KANSAS CONSTITUTION (1861)

ARTICLE VI (1966)--EDUCATION

Sec. 1. Schools and related institutions and activities. The legislature shall provide for intellectual, educational, vocational and scientific improvement by establishing and maintaining public schools, educational institutions and related activities which may be organized and changed in such manner as may be provided by law.

Sec. 2. State board of education and state board of regents. (a) The legislature shall provide for a state board of education which shall have general supervision of public schools, educational institutions and all the educational interests of the state, except educational functions delegated by law to the state board of regents. The state board of education shall perform such other duties as may be provided by law.

(b) The legislature shall provide for a state board of regents and for its control and supervision of public institutions of higher education. Public institutions of higher education shall include universities and colleges granting baccalaureate or postbaccalaureate degrees and such other institutions and educational interests as may be provided by law. The state board of regents shall perform such other duties as may be prescribed by law.

(c) Any municipal university shall be operated, supervised and controlled as provided by law.

Sec. 3. Members of State Board of education and state board of regents. (a) There shall be ten members of the state board of education with overlapping terms as the legislature may prescribe. The legislature shall make provision for ten member districts, each comprised of our contiguous senatorial districts. The electors of each member district shall elect one person residing in the district as a member of the board. The legislature shall prescribe the manner in which vacancies occurring on the board shall be filled.

(b) The state board of regents shall have nine members with overlapping terms as the legislature may prescribe. Members shall be appointed by the governor, subject to confirmation by the senate. One member shall be appointed from each congressional district with the remaining members appointed at large, however, no two members shall reside in the same county at the time of their appointment. Vacancies occurring on the board shall be filled by appointment by the governor as provided by law.

(c) Subsequent redistricting shall not disqualify any member of either board from service for the remainder of his term. Any member of either board may be removed from office for cause as may be provided by law.

Sec. 4. Commissioner of education. The state board of education shall

appoint a commissioner of education who shall serve at the pleasure of the board as its executive officer.

Sec. 5. Local public schools. Local public schools under the general supervision of the state board of education shall be maintained, developed and operated by locally elected boards. When authorized by law, such boards may make and carry out agreements for cooperative operation and administration of educational programs under the general supervision of the state board of education, but such agreements shall be subject to limitation, change or termination by the legislature.

Sec. 6. Finance. (a) The legislature may levy a permanent tax for the use and benefit of state institutions of higher education and apportion among and appropriate the same to the several institutions, which levy, apportionment and appropriation shall continue until changed by statute. Further appropriation and other provision for finance of institutions of higher education may be made by the legislature.

(b) The legislature shall make suitable provision for finance of the educational interests of the state. No tuition shall be charged for attendance at any public school to pupils required by law to attend such school, except such fees or supplemental charges as may be authorized by law. The legislature may authorize the state board of regents to establish tuition, fees and charges at institutions under its supervision.

(c) No religious sect or sects shall control any part of the public educational funds.

Sec. 7. Saving clause. (a) All laws in force at the time of the adoption of this amendment and consistent therewith shall remain in full force and effect until amended or repealed by the legislature. All laws inconsistent with this amendment, unless sooner repealed or amended to conform with this amendment, shall remain in full force and effect until July 1, 1969.

(b) Notwithstanding any other provision of the constitution to the contrary, no state superintendent of public instruction or county superintendent of public instruction shall be elected after January 1, 1967.

(c) The state perpetual school fund or any part thereof may be managed and invested as provided by law or all or any part thereof may be appropriated, both as to principal and income, to the support of the public schools supervised by the state board of education.

APPENDIX II.C.

COLBURN COMMITTEE--

PROPOSED ARTICLE VI (1965)

Sec. 1. Schools and related institutions and activities. (a) The legislature shall provide for intellectual, educational, vocational and scientific improvement by establishing and maintaining public schools, educational institutions and related activities which may be organized and changed in such manner as may be provided by law.

(b) There shall be no discrimination on the basis of race, creed, sex or national origin of persons in the public schools or public educational institutions.

Sec. 2. State board of education and state board of regents. (a) The legislature shall provide for a state board of education which shall have general supervision of all the public schools, educational institutions and related activities. Such general supervision shall be inclusive of vocational schools, community junior colleges, all the educational interests of the state and all aspects of education, except institutions of higher education supervised by the state board of regents. The state board of education shall perform such other duties as may be provided by law.

(b) The legislature shall provide for a state board of regents which shall supervise public institutions of higher education and related activities. Public institutions of higher education shall include universities and colleges granting baccalaureate or post-baccalaureate degrees. The state board of regents shall perform such other duties as may be prescribed by law.

(c) Any municipal university shall be operated, supervised and controlled as provided by law.

Sec. 3. Members of state board of education and state board of regents. (a) Members of the state board of education and members of the state board of regents shall serve overlapping terms of not less than six years nor more than nine years as the legislature may prescribe. Members of the first boards established under this section may be appointed for terms of less than six years.

(b) Members of the state board of education and members of the state board of regents shall be appointed by the governor, subject to confirmation by the senate.

(c) Any member of the state board of education or the state board of regents may be removed from office by the governor for cause as may be provided by law. Vacancies occurring on either board shall be filled by appointment by the governor as provided by law.

Sec. 4. Commissioner of education. The state board of education shall appoint and fix the compensation of a commissioner of education who shall

serve at the pleasure of the board as its executive officer.

Sec. 5. Local public schools. Local public schools under the general supervision of the state board of education shall be operated by locally elected boards. When authorized by law, such boards may make and carry out agreements for cooperative operation and administration of educational programs under the general supervision of the state board of eduction, but such agreements shall be subject to limitation, change or termination by the legislature.

Sec. 6. Finance. (a) The legislature may levy a permanent tax for the use and benefit of public institutions of higher education and apportion among and appropriate the same to the several institutions, which levy, apportionment and appropriation shall continue until changed by statute. Further appropriation and other provision for finance of institutions of higher education may be made by the legislature.

(b) The legislature may make provision for finance of educational and scientific activity by: (1) Transfer of funds or appropriations from one object or fund to another by the legislature, the state board of regents or the state board of education, (2) appropriation or revenue measures for periods greater than two years, (3) creation of special corporate entities authorized to perform any function related to education or scientific research, (4) pooling of public and private funds for educational research purposes, (5) any other method not prohibited by the constitution.

(c) No tuition shall be charged by any public school to pupils required by law to attend school, except as otherwise provided in this subsection. The legislature may authorize tuition to be charged to pupils required by law to attend school when such pupils voluntarily attend school outside of their territory of residence. Fees or supplemental charges may be authorized by the legislature under regulation and supervision of the state board of education or the state board of regents.

(d) The state board of regents and the state board of education in accordance with law may: (1) Allocate among and within the institutions and activities under their respective supervision such funds as the legislature may appropriate, and (2) receive, manage, expend and invest funds from any source.

(e) No religious sect or sects shall control any part of the public educational funds.

Sec. 7. Fines to be appropriated for school purposes. Proceeds of fines for any breach of the penal laws shall be deposited in the state treasury and appropriated by the legislature for educational purposes only.

Sec. 8. Saving clause. (a) All laws in force at the time of the adoption of this amendment and consistent therewith shall remain in full force and effect until amended or repealed by the legislature. All laws inconsistent with this amendment, unless sooner repealed or amended to conform with this amendment, shall remain in full force and effect until July 1, 1969.

(b) Notwithstanding any other provision of the constitution to the contrary, no state superintendent of public instruction or county superintendent of public instruction shall be elected after January 1, 1967.

(c) The state perpetual school fund as it exists on the effective date of this amendment shall be subject to disposition by the legislature both as

to principal and income, but shall be appropriated only for educational purposes.

BIBLIOGRAPHY

Books

"Kansas." Encyclopedia Britannica. 1962. Vol. XIII.

Pearson, Jim B., and Fuller, Edgar, eds. Education in the States: Historical Development and Outlook. Washington, D.C.: National Education Association of the United States, 1969. See Chapter 16.

Public Documents

Kansas. Acts (1859, 1861, 1873, 1897, 1915, 1917, 1919, 1933, 1937, 1945, 1965, 1966, 1968).

_____. Constitution (1861 and Amendments).

Kansas State Board of Education. "The Board of Education of the State of Kansas invites nominations for the position of Commissioner of Education." Topeka, 1969. (Printed.)

Reports--Kansas Education

Colburn, John H., Chairman. Report of the Education Advisory Committee to the Education Committee. Topeka, Kansas: Kansas Legislative Council, 1965.

_____. A Report of the Education Advisory Committee to the Committee on Education: On Proposal No. 45. Topeka, Kansas: Kansas Legislative Council, 1966.

Domian, Otto E., and Keller, Robert J. Comprehensive Educational Survey of Kansas. Summary Report; Topeka, Kansas: Kansas Legislative Council, 1960.

Kansas State Teachers Association. The State Department of Education in Kansas. Bulletin No. 2, Series of 1945; Topeka, Kansas: The Kansas State Teachers Association, 1944.

Unpublished Materials

Kansas Secretary of State. Information obtained via telephone on 1966 election returns.

III - Michigan State Education Agency--
transition 1965

Contents Pages

Brief History to 1963 93

Constitution 94

State Board of Education 94

Superintendent of Public Instruction 102

The Change--The Period from 1963 to 1965 104

A Review and Appraisal of the Governing Structure by the Michigan Study Participants 108

Appendix III - Michigan 113

III.A. - Michigan Constitution (1835) Article X--Education 114

III.B. - Michigan Constitution (1850) Article XIII--Education 115

III.C. - Michigan Constitution (1908) Article XI--Education 117

III.D. - Michigan Constitution (1963) Article 8--Education 120

Table 3 - Comparison of the Education Articles of the 1835, 1850, and 1908 Michigan Constitutions with the 1963 Michigan Constitution 95

Figure 3 - Key Fvents in Michigan State Education Agency Development 96

Bibliography. 123

MICHIGAN

STUDY PARTICIPANTS

Individual meetings held on March 8-9, 1973, in Lansing, Michigan, at the Michigan Department of Education (520 Michigan National Tower), The Michigan State House, and several other locations.

HOST:
Dr. John W. Porter
State Superintendent of Public Instruction
Michigan State Department of Education
520 Michigan National Tower
Lansing, Michigan 48902

STUDY ORGANIZER:
Mr. Alex Canja
Executive Assistant to the State Superintendent
Michigan Department of Education
520 Michigan National Tower
Lansing, Michigan 48902

PARTICIPANTS:

Dr. Ferris Crawford
Michigan Department of Education
520 Michigan National Tower
Lansing, Michigan 48902
Associate Supt. for School Program Development 1966-Pres.
Member, Department of Education 1946-Pres.

The Honorable Robert Crim
Michigan State House of Representatives
State Capitol Building
Lansing, Michigan 48902
Member, Michigan House of Representatives 1965-1967; 1973-Pres.
Member, Appropriations Committee 1973-Pres.

The Honorable Jack Faxon
Michigan State Senate
State Capitol Building
Lansing, Michigan 48902
Member, Michigan State Senate 1971-Pres.
Member, House of Representatives 1965-71
Delegate, Constitutional Convention 1961-62

Mr. Henry B. Linne
President, Michigan Federation of Teachers, AFL-CIO
14625 Greenfield
Detroit, Michigan 48227
President, Michigan Federation of Teachers, AFL-CIO 1961-Pres.

Dr. Ira Polley
Asst. Provost for Admission and Records
Provosts Office
Michigan State University
East Lansing, Michigan 48823
State Superintendent of Public Instruction 1965-69

The Honorable Anthony Stamm
Michigan State Senate
State Capitol Building
Lansing,Michigan 48902
Member, Michigan State Senate 1967-Pres.
Member, Senate Education Committee 1971-Pres.
Delegate, Constitutional Convention 1961-62

CHAPTER III

MICHIGAN STATE EDUCATION AGENCY--
TRANSITION 1965

Brief History to 1963

The early history and development of the Michigan State Department of Education has been described in a chapter of a book dealing with the fifty state departemnts of education: the chapter was prepared by the Department of Education staff.[1] Michigan's Legislature has been charged with the responsibility for establishing a system of public education in each of the State's four constitutions.[2] The first three constitutions mentioned only the common or primary schools: the last one specifically stated "elementary and secondary schools." Several constitutional arrangements were made for the state-level governance of primary and/or secondary education and these will be reviewed later. Michigan has always had a constitutional Superintendent of Public Instruction, but has tried several methods of selecting this officer.[3] A state board of education was called for by the 1850, 1908,

---

[1] Jim B. Pearson and Edgar Fuller, eds., Education in the States: Historical Development and Outlook (Washington, D.C.: National Education Association of the United States, 1969), pp. 593-618. Chapter 22 concerns Michigan.

[2] Michigan Const. (1835) art. X, sec. 3; Michigan Const. (1850) art. XIII, sec. 4; Michigan Const. (1908) art. XI, sec. 9; Michigan Const. (1963) art. 8, sec. 2.

[3] Michigan Const. (1835) art. X, sec. 1; Michigan Const. (1850) art. XIII, sec. 1; Michigan Const. (1908) art. XI, sec. 2; and Michigan Const. (1963) art. 8, sec. 3.

and 1963 constitution but was not mentioned in the 1835 constitution.[4] The state has had a strong commitment to education and dissemination of knowledge down through the years as evidenced by its interest in, and support of, libraries at the local level.[5] Fines collected by the state and its subdivisions for the violation of penal laws have been dedicated since 1835 to the support of this statewide library system.

Constitution

A brief comparison of the 1835, 1850, and 1908 Constitutions with the 1963 Constitution can be found in Table 3. A variety of study papers were prepared for the 1963 Michigan Constitutional Convention, some of which related directly to education. A paper by Leu concerning elementary and secondary education reviewed the 1835, 1850, and 1908 Constitutions.[6] This paper also included the education articles in the two Constitutions which were proposed, but not ratified, in 1867 and 1873.

State Board of Education

Michigan has had a State Board of Education since 1850, but the duties of the board were quite limited until 1963. Figure 3 presents some of the key milestones in the development of the Michigan state governing structure for elementary and secondary education, including the portion pertaining to

---

[4] Michigan Const. (1850) art. XIII, sec. 9.; Michigan Const. (1908) art. XI, sec. 6; Michigan Const. (1963) art. 8, sec. 3.

[5] Michigan Const. (1835) art. X, sec. 4; Michigan Const. (1850) art. XIII, sec. 12; Michigan Const. (1908) art. XI, sec. 14; Michigan Const. (1963) art. 8, sec. 9.

[6] Donald J. Leu, Elementary and Secondary Education *and* The Michigan Constitution. Report to the Constitutional Convention Preparatory Commission, Lansing, Michigan, September 1961 (Lansing, Michigan: State of Michigan, 1961). See also Constitutional Convention Citizens' Advisory Committee on Education, Report of the Committee prepared for the Governor, John B. Swainson, Citizens Advisory Committee Report--Education (Lansing, Michigan: State of Michigan, 1961).

TABLE 3

COMPARISON OF THE EDUCATION ARTICLES OF THE 1835, 1850, AND 1908 MICHIGAN CONSTITUTIONS WITH THE 1963 MICHIGAN CONSTITUTION

Sect. No. of Art. 8 1963 Const.	Sect. No. of Art. XI 1908 Const.	Sect. No. of Art. XIII 1850 Const.	Sect. No. of Art. X 1835 Const.
1. Encouragement of education.	1. Identical.	11. Included agricultural schools.	2. Included dedication of land sale monies to education.
2. Legislature to maintain system of free public elementary and secondary schools; no discrimination permitted.	9. Limited in scope (primary schools). 11. & 12. Finance of schools from land monies.	4. Much more limited in scope (primary schools). 5. Terms of school operation detailed. 2. & 3. Land monies used to support schools.	3. Much more limited in scope (common schools).
3. Created State Board of Education; established conditions of election and terms; established duties of board including leadership and general supervision over all of public education.	6. Created 4-member board, six year terms for three members. One ex officio member. Supervise normal schools.	9. Four member board, six year terms for three members. One ex officio member. Supervise normal schools.	No counterpart.
Establish office of State Superintendent (board appointed) and prescribe this officer's duties.	2. Provided for election of State Supt. for 2-year term. Prescribed duties.	1. Provided for duties of State Supt. (see also Art. VIII, sec. 1)	1. Governor-appointed State Supt. w/confirmationby vote of Legislature.
4.,5., & 6. Higher education support, management, and accountability.	3.,4.,5.,7.(State Bd. of Agric.),8.,10., 13.(Financing of Agric. College)	6.,7.,8.,11.	5. Very limited in scope (funds).
7. Community and junior colleges; advisory board to State Board of Education.	No counterpart.	No counterpart.	No counterpart.
8. Services to handicapped persons.	15. Types of handicapped mentioned.	10. Types of handicapped mentioned.	No counterpart.
9. Public libraries and their financial support through the use of fines.	14. Basic concept the same (township and city school units mentioned).	12. Same basic concept (township unit mentioned).	4. Basic concept the same (township unit mentioned).